Stuck in Limbo:

The Repatriation of Unprovenanced Australian Indigenous Ancestral Remains from UK and Australian Museums

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Abstract

Within the last 30 years, the repatriation of Australian Indigenous ancestral remains from both UK and Australian museums has progressed extensively, with institutions recognising Australian Indigenous concerns for the public display and treatment of their ancestral remains, and appeals for their return. Since the late 1980s, hundreds of repatriation claims have been considered on a global scale, and the return of ancestral remains to associated communities or families conducted. Nevertheless, a subsequent result of the repatriation process has been the ever-increasing number of 'unprovenanced' Australian Indigenous ancestral remains within the UK and Australian museum collections. As a relatively new concern, 'unprovenanced' ancestral remains pose a particularly problematic dilemma for both museums and Australian Indigenous communities.

With the repatriation process playing an integral role in the development of the 'unprovenanced' predicament, the purpose and function of repatriations for both Australian Indigenous communities and museums must be acknowledged. This thesis will examine the challenges 'unprovenanced' remains pose for Australian Indigenous communities and both Australian and UK museums, highlighting the historical context surrounding the initial fascination and the subsequent acquisition of Australian Indigenous human remains by the British during the eighteenth to the twentieth centuries. This will include observations of various institutional attitudes, policies, and procedures developed surrounding the care and repatriation of Australian Indigenous ancestral remains within both the UK and Australia. As provenance is of particular significance in the process of repatriating human remains, provenancing techniques and schemes, young and old, must be examined, providing a plausible means for future development and insight. As a growing concern, the future of 'unprovenanced' ancestral remains must be considered, with various options deliberated, such as the proposed development of a National Resting Place within Australia, which would ensure cultural respect is acknowledged and moral obligations maintained for Australian Indigenous community members, UK and Australian museums, and perhaps most importantly, the ancestral remains themselves.

Table of contents

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[1] Out of respect to the Indigenous Australian people, I have used the most appropriate form and format of the term of address throughout this thesis, as referred to within the Glossary of Indigenous Australia Terms, *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-indigenous-australia-terms> [accessed 15/05/17].

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Abbreviations

AAPA	American Association of Physical Anthropologists
ACIR	Advisory Committee for Indigenous Repatriation
AMNH	American Museum of Natural History
ATSIC	Australian Aboriginal and Torres Strait Islander Commission
CUHR	Culturally Unidentifiable Human Remains
DCMS	Department for Culture, Media and Sport
DNA	Deoxyribonucleic Acid
FaHCSIA	Families, Housing, Community Services and Indigenous Affairs
IRP	International Repatriation Program
NAGPRA	Native American Graves Protection Act
NCAFP	National Congress of Australia's First Peoples
NMA	National Museum of Australia
NMAI	National Museum of the American Indian
NMAIA	National Museum of the American Indian Act
NKP	National Keeping Place
NRP	National Resting Place
NSPP	National Skeletal Provenancing Project
NZ	New Zealand
OIPC	Office of Indigenous Policy Coordination
RICP	Return of Indigenous Cultural Property
SAA	Society for American Archaeology
SSN	Human Remains Subject Specialist Network
TAC	Tasmanian Aboriginal Centre
Te Papa	Museum of New Zealand Te Papa Tongarewa
UK	United Kingdom
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
USA	United States of America
WGHR	Working Group on Human Remains

List of figures

Prologue

Skeletal

You are a point of interest,
Old bones in a museum case.
A card reads: THIS IS A SKELETON OF A
MEMBER OF THE ABORIGINAL RACE.

I wonder where you laid your head at night
When you roamed the banks of the Swan,
Perhaps you walked to Karla-munda
And on, and on,
By the marsh, by the reeds,
And gathered there your Jam and Wattle seeds.

You swam with reeds upon your head
And pulled the sleeping duck down under.
You knew the feel of rain on your face,
Lightning flash, the crack of thunder.

Yes, Old One, you knew how to live.
You had no need of white man's legislation.
What you could see was yours, supreme,
The earth and sky out of a dream
Was your Creation.

Fancy is gone, my dream of you is broken
By children rushing in the dim-lit room.
I touched the show-case gently as a token
And I hear him whisper: "Courage",
Through the darkness and the gloom.
By Jack Davis[1]

[1] Victorian Aboriginal Heritage Council, 'Bringing our Ancestors Home: We will not be well until this is done - Recommendations for change / Victorian Aboriginal Heritage Council.', *Victoria State Government*, 2014, p. 16.

Introduction

The repatriation of human remains continues to be an increasingly significant, highly sensitive, contentious topic confronting contemporary Western museums today. Since the late eighteenth century, indigenous human remains and specimens have been collected, studied, exhibited and preserved within museum collections on a global scale.[1] Displayed publicly and highly scrutinised within Western institutions, they have served as a means of establishing a collective chronological representation of human evolution, as well as displaying racial characteristics and examining cultural distinctions within humankind.[2] Museums have, throughout history, been viewed as political tools which mimic and cultivate attitudes and ideologies of the time. However, progressively, these attitudes have evolved and been subject to change, and now with greater acknowledgment and adoption of ethical and cultural practices, as well as amendments to regulatory legislation, serve to support and empower indigenous communities by providing the opportunity for their 'voice' to be included and represented within public museums, thereby providing indigenous communities with the recognition of authority and autonomy over their culture and ancestors.

The inclination towards collecting human remains and cultural memorabilia developed during the Renaissance and Enlightenment eras, predominantly from the late fourteenth century to the nineteenth century, when collecting the *curious* encountered whilst on expeditions, 'near and far', motivated by the partiality for personal gain, as well as public fascination and entertainment.[3] Simpson, Fforde,

[1] Thomas, N., (1991); Simpson, M. G., (2001).
[2] Darwin, C., M. A., (1861); Huxley, T. H., (1872); Fforde, C., Hubert, J., Turnbull, P., (2002); Bennett, T., (2004); Fforde, C., (2004); McNiven, I. J., Russell, L., (2005); Turnbull, P., Pickering, M., (2010).
[3] Evans, R. J. W., Marr, A., (eds.), *Curiosity and Wonder from the Renaissance and the Enlightenment*, Ashgate: UK & USA, 2006.

Pickering and Turnbull all individually emphasise that the prominence of collecting indigenous human remains, on a wide scale, grew in popularity through colonialism (1600s–1900s), with collectors' methods of mass acquisition reflecting colonial attitudes expressed towards indigenous people, which, in turn, influenced European preconceptions and stereotypes of the 'savage'.[4] Indigenous human remains were scrutinised and objectified through public display or, as described by both Attwood and Russell, were labelled and stored away within overcrowded collections, lingering in a state of 'purgatory' to await further research or, in more recent years, a claim for repatriation.[5] This was very much the case for hundreds of Australian Indigenous ancestral remains housed within cultural institutions, in both Australia and the UK, from the late eighteenth century to the late twentieth century.[6] Even so, at the time of Australian Indigenous ancestral remains being acquired, ideologies and attitudes differed vastly from those present today.[7] The Western proclivity for collecting Australian Indigenous ancestral remains extended not only from curiosity and the desire to obtain examples of human specimens in order to research and illustrate evolutionary theories, including historical, cultural and racial diaspora, but also from popular theoretical ideologies expressing the need to preserve an 'inferior' and 'dying' race.[8] The questionable methods used in acquiring these 'specimens' masked and denied the recognition of indigenous cultural rights and respect, showing little acknowledgment of Australian Indigenous people as fellow 'human beings'.[9]

It is undeniable that, through the display of cultural artefacts and human remains within museums, audiences have over time, and to varying degrees, been able to educate themselves on ancient civilisations and their varied cultures, gaining insight into how they lived and died, their status, diseases, diet, and burial

[4] Garson, J. G., M. D., Read, C. H., F. S. A., (1892, pp.5-6); Simpson, M. G., (2001); Bennett, T., (2004); Fforde, C., Hubert, J., (2006, p. 83); Turnbull, P., Pickering, M., (2010); Qureshi, S., (2011); Redman, S. J., (2016); Colwell, C., (2017).
[5] Attwood, B., (1989); Russell, L., (2001); Colwell, C., (2017, p. 1).
[6] Faulkhead, S., Berg, J., (2010); Turnbull, P., Pickering, M., (2010).
[7] Bennett, T., (2004); Fforde, C., (2004); McNiven, I. J., Russell, L., (2005); Turnbull, P., (2008).
[8] Bennett, T., (2004); Fforde, C., (2004); McNiven, I. J., Russell, L., (2005).
[9] Garson, J. G., M. D., Read, C. H., F. S. A., (1892); Said, E., (1993); Turnbull, P., Pickering, M., (2010).

customs.[10] However, due to the previously questionable display of human remains amongst other cultural material within a Western museum setting, the distinct sense of 'Otherness',[11] as highlighted by Karp[12] and Naguid,[13] was reinforced. This, ultimately, categorised the remains as 'objects' within the greater collection, for discussion and observation, rather than individual ancestors who were part of a community or family.[14] The objectification of human remains within museums, and the subsequent disassociation expressed by museum visitors towards skeletal remains displayed, is suggested by Katherine Goodnow to have been due to cleaned appearance and the lack of physical human traits, such as hair, skin and nails, which prompt emotive connotations, personal reflection, and recognition.[15]

Since the nineteenth century, ethnographical museums have been actively perceived to be the keepers and arbitrators of other people's cultures, imprinting their own interpretations upon collected objects, Indigenous source communities, and cultures from around the world without permitting the Indigenous 'voice' to be acknowledged or represented.[16] That being said, Hooper-Greenhill argues that, though perhaps viewed as a fixed notion, the museum has transformed and adapted to societal perspectives and economic and political changes at various points over the course of history; with such adaptation, the methods of curation

[10] Goodnow, K., (2006, pp.123-130); Alberti, S. J. M. M., Bienkowski, P., Chapman, M. J., Drew, R., (2009).
[11] Neimneh, S., 'The Construction of the Other in Postcolonial Discourse: C. P. Cavafy's "Waiting for the Barbarians" as an Example', *International Journal of Applied Linguistics & English Literature*, Vol. 2, No. 5, 2013, pp. 133-138.
[12] Karp, I., 'Other Cultures in Museum Perspective', in *Exhibiting Cultures: The Poetics and Politics of Museum Display*, Karp, I., Lavine, S. D., (eds.), Smithsonian Institution Press: Washington D.C., 1991, pp. 373-385.
[13] Naguib, S. A., 'The Aesthetics of Otherness in Museums of Cultural History', *Institutt for kulturstudier og orientalske spark*, Vol. 3, No. 4, 2004, pp. 5-21.
[14] Goodnow, K., (2006, pp. 123-130); Jenkins, T., (2010, pp. 125-126); Sayer, D., (2010).
[15] Goodnow, K., 'Bodies: Taking Account of Viewers' Perspectives', in *Human Remains and Museum Practice: Museums and Diversity*, Lohman, J., Goodnow, K., (eds.), UNESCO and the Museum of London: Paris & London, 2006, pp. 123-130. Goodnow refers to Julia Kristeva and her argument in respect of the concept of abject and our ambivalent reactions of viewing dead bodies as an extension of how society constructs borders between what is perceived to be clean versus dirty, living versus dead and human versus animal. This concept is, however, determined by the individual society (Goodnow, K., 2006, pp. 123-130).
[16] Onciul, B., *Museums, Heritage and Indigenous Voice: Decolonizing Engagement*, Routledge: New York & London, 2015.

and collection management have developed.[17] More recently, the justification of museums, their role within the community, as well as those cultures and communities which they represent through their displayed objects has led to the evolution and reconfiguration of museum ethics and practices.[18]

Repatriation is viewed as a highly political subject, which questions the shifting relations of power and authority between and amongst museums and communities. Hubert and Fforde note that the reburial issue of Indigenous human remains from museum collections emerged from what was viewed as a fundamental clash of interests, becoming by the 1980s an issue of intense global debate which has continued to the present day.[19] The push for repatriation has been viewed by various academics to have caused a rift in the relationship between archaeologists, scientists and Indigenous communities. Nevertheless, perceived to be an issue predominantly associated with Indigenous concern, the call for reburial was supported by both Indigenous and non-Indigenous persons on a global scale.[20] Thornton remarks on the symbolic power that repatriation provides to formerly oppressed and marginalised people, detailing that the process promotes reconciliation and a way in which to heal wounds of the past, a notion continuously reinforced by the Australian government and coalition.[21] Morton similarly argues this concept, but questions the volition of reconciliation as a desired outcome for the Australian Indigenous people, suggesting instead that their interests lie in the objective of achieving and reassigning power over their cultural material, heritage, and sacred sites to present and future Australian Indigenous people.[22]

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[17] Hooper-Greenhill, E., *Museums and the Shaping of Knowledge*, Routledge: London & New York, 1992, p. 1.
[18] Kreps, C., (2011); ICOM (2013); Museums Association (2015a, 2015b).
[19] Hubert, J., Fforde, C., 'The reburial issue in the twenty-first century', in *Heritage, Museums and Galleries: An Introductory Reader*, Corsane, G., (ed.), Routledge: London and New York, 2005, p. 109.
[20] Simpson, M. G., (2001); Fforde, C., Hubert, J., Turnbull, P., (2002); Fforde, C., (2004); Hubert, J., (2005); Layton, R., (2005); Turnbull, P., Pickering, M., (2010).
[21] Thornton, R., 'Repatriation as healing the wounds of the trauma of history: case of Native Americans in the United States of America', in *The Dead and their Possessions: Repatriation in principle, policy and practice*, Fforde, C., Hubert, J., Turnbull, P., (eds.), Routledge: London, 2002, pp. 17–24.
[22] Morton, J., 'Consigned to Oblivion: People and Things Forgotten in the Creation of Australia', in *The Long Way Home: The Meaning and Values of Repatriation*, Turnbull, P., Pickering, M., (eds.), Berghahn Books: New York & Oxford, 2010, pp. 96–113.

In addition, the incorporation of source communities within museum practice, as highlighted by Hole, has provided museums with a way in which to obtain a deeper interpretation of their collections and increase their relevance, while permitting source communities the opportunity to further their knowledge of objects and aspects of their cultures.[23] The mutual benefit of continuous interaction and cooperation between museums and source communities is further emphasised by Peers and Brown, Watson, and Golding and Modest, as this relationship serves to support Indigenous communities in their representation within museums and validate curatorial interpretations and exhibition approaches through the inclusion of the Indigenous 'voice'.[24]

Furthermore, the construction of what Clifford refers to as 'contact zones' within museums provides another perspective as to how cultural institutions not only interact with various Indigenous groups, but also serve to create a place of cultural discourse and shared authority.[25] Peers and Brown examined the legitimate claims and continuous interest that source communities have with regard to museum collections, highlighting their specific cultural needs and rights of access to their cultural material, a concept acknowledged by many Australian museums. Moreover, in the development of the repatriation process and debate, the authority of the museum is called into question, reflecting the museum's role in the 'ownership' or 'custody' of the cultural objects within their collection, as well as their ethical obligations in addressing community concerns surrounding the repatriation of both provenanced and unprovenanced Indigenous ancestral remains within their collection.[26]

Current literature on repatriation focuses predominantly on the cultural benefits which the process provides, including the moral and respectful treatment and

[23] Hole, B., 'Playthings for the Foe: The Repatriation of Human Remains in New Zealand', *Public Archaeology*, Vol. 6, No. 1, 2007, pp. 5–27.
[24] Peers, L., Brown, A. K., (2003); Watson, S., (2007); Golding, V., Modest, W., (2013).
[25] Clifford, J., (1997); Hutchison, M., (2013).
[26] Peers, L., Brown, A. K., (eds.), *Museums and Source Communities: A Routledge Reader*, Routledge: London & New York, 2003, p. 9.

acknowledgement of cultural beliefs and traditions through mutual cooperation.[27] The introduction of various governmental legislation surrounding the rights of Indigenous people and the treatment of their cultural material and ancestral remains, such as the 1989 *Vermillion Accord on Human Remains,* the *First Code of Ethics* adopted by the World Archaeological Congress in 1990,[28] the 1990 *Native American Graves Protection and Repatriation Act* (NAGPRA),[29] the 1993 Australian *Previous Possessions, New Obligations: Policies for Museums in Australia and Aboriginal and Torres Strait Islander People*, and, more recently, although twenty-five years in the making, the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), has worked to bring to the fore of public debate the inequalities and injustices which Indigenous people from around the world have endured at the hands of dominant Western societies. More importantly, these specifically designed acts of legislation reinforce the need to '*recognise'* and *'reaffirm'* Indigenous individual entitlement, without discrimination towards all of the human rights identified in international law.[30] This includes the expressed emphasis that Indigenous people possess collective rights which are indispensable to their existence, well-being, and integral to their continuous development as a community.[31]

Fforde draws on the instructive element that repatriation delivers, acknowledging the glimpse into 'contemporary attitudes which it provides that underlie professional practice and thus the opportunity for development and change'.[32] Even though societal and institutional attitudes are exhibited through the various

[27] Turnbull, P., (1997); Simpson, M. G., (2001); Fforde, C., Hubert, J., Turnbull, P., (2002); Fforde, C., (2004); Hubert, J., (2005); Layton, R., (2005); Lambert-Pennington, A. K., (2007); Turnbull, P., Pickering, M., (2010); Giesen, M., (2013); Besterman, T., (2014); Bienkowski, P., (2014); Curtis, N., (2014); Colewell, C., (2017).

[28] 'World Archaeological Congress Code of Ethics', *The World Archaeological Congress*, <http://www.worldarchaeologicalcongress.org/site/about_ethi.php#code2> [accessed 10/06/14].

[29] National Park Service – U.S. Department of the Interior, 'Native American Graves Protection and Repatriation Act', *National NAGPRA*, 16 November 1990, <http://www.nps.gov/nagpra/mandates/25usc3001etseq.htm> [accessed 11/06/14].

[30] 'United Nations Declaration on the Rights of Indigenous Peoples', *Australian Human Rights Commission*, 2015, <https://www.humanrights.gov.au/publications/un-declaration-rights-Indigenous-peoples-1> [accessed 30/07/16].

[31] Ibid.

[32] Fforde, C., 'In Search of Others: The History and Legacy of 'Race' Collections', in *The Oxford Handbook of Archaeology of Death and Burial*, Tarlow, S., Stutz, L. N., (eds.), Oxford University Press: United Kingdom, 2013, p. 724.

policies and legislation constructed, many museum policies, within both the UK and Australia, have required amendments or the inclusion of specific repatriation policies pertaining to Indigenous human remains in order to reflect the present social and moral position on the issue. It is apparent that a heightened awareness of Indigenous injustice has prompted a need for respect to be exhibited towards, and provided to, Indigenous people and their culture within institutions, with written emphasis incorporated within acts of legislation and institutional policies, as represented within Articles 11,[33] 12[34] and 15[35] of the UNDRIP.[36]

While academic focus has been on the cultural significance and moral obligations that museums and Indigenous communities hold towards their ancestors stored within institutions, few resources examining the issue of repatriation focus on the dilemma connected with unprovenanced remains. Therefore, in order to fully comprehend the issue that unprovenanced remains pose within the process of repatriation, it is important to firstly comprehend and acknowledge the importance that provenance has. The term 'provenance' is defined as 'a place where something originally derived from, or a record tracing the ownership history of a certain object that confirms their authenticity and value'.[37] It is true

[33] Article 11: 1. Indigenous peoples have the right to practice and revitalise their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature. 2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with Indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.
[34] Article 12: 1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. 2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with Indigenous peoples concerned.
[35] Article 15: 1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information. 2. States shall take effective measures, in consultation and cooperation with the Indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among Indigenous peoples and all other segments of society.
[36] 'United Nations Declaration on the Rights of Indigenous Peoples', *Australian Human Rights Commission*, 2015, <https://www.humanrights.gov.au/publications/un-declaration-rights-Indigenous-peoples-1> [accessed 30/07/16].
[37] 'Provenance', *Oxford Dictionaries*, <http://www.oxforddictionaries.com/definition/english/provenance> [accessed 10/08/16].

that in the initial acquisition of human remains, provenance was an influential component, acting as a fundamental prompt in the continuous scientific study and collection of such distinct and unique objects. These human remains provided relevant archaeological and ethnographical insight into Australian Indigenous people and their communities. Hanchant sheds light on the crucial importance that provenance has in the repatriation process and in the ultimate interment of Australian Indigenous ancestral remains.[38]

Whilst the concept of unprovenanced Indigenous human remains has been acknowledged since the demand for repatriation was initiated, few resources have provided comprehensive insight into the cultural repercussions, community obstructions and appropriate methods in respect of tackling this dilemma with an appropriate and culturally sensitive solution. In her text, Hanchant addresses the issue of unprovenanced and 'mis-provenanced' Australian Indigenous ancestral remains within museums, and the need for designating provenancing projects and repatriation teams within museums.[39]

The term 'unprovenanced' counteracts 'provenanced', signifying the absence of known origin or the inability to trace the location or ownership history of a certain object. Within this thesis, and in relation to the repatriation of Australian Indigenous ancestral remains from UK and Australian institutions, the term 'unprovenanced' is applied in reference to remains which, though known to be of Australian Indigenous descent, do not possess any known reference to a community or place of associated affiliation.

Even though it may be assumed that knowing the country of origin is sufficient information to establish a required provenance, and subsequently locate an appropriate place for burial, for the Australian Indigenous people, their cultural practices and beliefs, specifically those pertaining to their kinship and traditional

[38] Hanchant, D., 'Practicalities in the return of remains: the importance of provenance and the question of unprovenanced remains', in *The Dead and their Possessions: repatriation in principle, policy and practice,* Fforde, C., Hubert, J., Turnbull, P., (eds.), Routledge: London, 2002.
[39] Ibid., pp. 312–316.

mortuary customs from individual communities,[40] as illustrated by both Davidson and Meehan, differ greatly from one another. These variations in community practices accentuate the need for an exact known association of ancestral remains with a specific community to be established. This ensures that the deceased spirit joins its own ancestors within its 'Dreamtime',[41] and that spiritual conflict or repercussions for the living, due to mis-provenancing, do not occur.[42] Therefore, due to the specific Australian Indigenous cultural and community practices and beliefs, unprovenanced ancestral remains raise a particularly problematic issue which requires both institutional and community involvement in order to establish a culturally appropriate solution. Although the act of repatriation reinforces the acceptance and acknowledgment of Australian Indigenous practices and beliefs by Western institutions, there are still various policy restrictions put in place, specifically regarding a claimant's cultural affinity to the ancestral remains, which limit and inhibit the process of repatriation. This is specifically seen in the repatriation of unprovenanced ancestral remains within both the UK and Australia, which ultimately requires the need to be readdressed and resolved. In order to gain an overall understanding of the different positions on and approaches to repatriation adopted within the UK and Australia, and how the issues of repatriating unprovenanced Australian Indigenous ancestral remains are acknowledged, and their willingness towards discussion is initiated, it is important to fully comprehend all facets of the issue pertaining to Australian Indigenous communities and their heritage, including Australian and UK institutional practices, policies, as well as academic and political agendas.

Respect for the dead

The concept of 'respect' is greatly emphasised within the issue of repatriation and this thesis, a concept reinforced within modern society as a basic right to which all of humanity are entitled. Paine draws on the allocation and observation of respect

[40] Davidson, D. S., (1949); Meehan, B., (1971); Pardoe, C., (1988); Glaskin, K., et al., (2008).
[41] Refer to Glossary of Terms for the definition.
[42] Fforde, C., Hubert, J., Turnbull, P., (2002); Turnbull, P., Pickering, M., (2010).

expressed towards sacred objects and human remains, examining their placement within museums and their contact with curators, conservators and the general public.[43] Referencing Dillon,[44] Paine argues that 'when we respect something, we heed its call, accord its due, and acknowledge its claim to our attention'.[45] In respecting an object, Paine remarks on the various distinctions which impact on the respecter's attitude and inclination towards the object, suggesting that 'we respond to it [the object] not as an extension of feelings, desires, and interests we already have, but as something whose significance is independent to us'.[46] Moreover, Paine implies that 'our reasons for respecting something are…reasons for other people to respect it (or at least to endorse our respect for it from a common point of view)'.[47]

The display of human remains and human artefacts within museums poses a particular conundrum in the attribution of respect. Traditionally, human remains, specifically Indigenous remains, were principally used as inanimate objects within museum displays, serving mainly as scientific and educational tools for insight into human evolution and racial distinction. The classification of human remains as scientific tools reinforced their 'objectification' and, in turn, served to refute their humanistic association and denounced the need for the demonstration of respect attributed to an individual. That being said, Paine suggests:

> the offering of respect towards an object is not so much directed towards the artefact itself, but towards the person, community or culture that produced it, and perhaps…to the very notion of the diversity of human-kind, and, to the many ways human beings try to order their lives and understand their world.[48]

[43] Paine, C., *Religious Objects in Museums: Private Lives and Public Duties*, Bloomsbury Academic: UK & USA, 2013, pp.55–62.
[44] Dillon, R. S., 'Respect', in *The Stanford Encyclopedia of Philosophy*, Zalta, E. N., (ed.), 2007, <https://plato.stanford.edu/entries/respect/> [accessed 08/08/17].
[45] Paine, C., *Religious Objects in Museums: Private Lives and Public Duties*, Bloomsbury Academic: UK & USA, 2013, p. 56.
[46] Ibid.
[47] Ibid.
[48] Ibid., p. 57.

Even so, in practice, attention towards an object should be administered in a culturally appropriate manner, wherein respect should be given to the wishes of the communities from which the objects derive.[49]

Scarre reinforces Paine's construction of respect, suggesting that respect can take many different forms, which characteristically combines an attitudinal and an active, dispositional attribution.[50] He further defines that there are at least four different modes in which the notion of respect may be applied under circumstances regarding the dead:

1. Respect for the person whose remains are at issue;
2. Respect for the remains themselves;
3. Respect for humanity, as represented in the remains;
4. Respect for the feelings and wishes of surviving relatives and/or genetic or cultural descendants of the dead.[51]

Most Western archaeologists will reinforce and display deep sentiments of respect towards the human remains that they are excavating, ensuring that they are treated with the utmost care.[52] This, undoubtedly, may be true within their own Eurocentric framework of what constitutes 'respect' for a dead person. However, as to what constitutes respect is a construct that varies according to one's culture, religion, professional discipline, and worldview.[53] In addition, it may be correct to suggest that archaeologists have not physically harmed the human remains within their collections; however, by conducting scientific testing on the remains, the intrusive act itself may be perceived to be culturally disrespectful and unethical. Moreover, by simply acting in their own interest, and with further advancement and benefit in mind, archaeologists therefore ignore, and fail to recognise, that

[49] Curtis, N. G. W., (2003); Paine, C., (2013, p. 57).
[50] Scarre, G., ''Sapient Trouble-Tombs'? Archaeologists' Moral Obligations to the Dead', in *The Oxford Handbook of the Archaeology of Death and Burial*, Tarlow, S., Stutz, L. N., (eds.), Oxford University Press: UK, 2013, p. 667.
[51] Ibid.
[52] Ibid.
[53] Orr, E. R., Bienkowski, P., 'Respectful Treatment and Reburial: A Practical Guide', Paper delivered at the conference 'Respect for Ancient British Human Remains: Philosophy and Practice', *Manchester Museum*, 7 November 2006, p. 3.

some forms of harm exist because of the denial of a person's previous right to make crucial decisions affecting their own future.[54] It is undeniable that no person should be forced against their will to take part in medical and other research. However, for the dead such a right is rejected, as archaeologists and researchers have continuously disturbed culturally sacred burials in order to gain knowledge and cultural insight in the name of the 'greater good'.[55]

The Vermillion Accord on Human Remains (1989)[56] calls for all four of Scarre's principles of respect to be paid to the Indigenous people and their heritage, introducing articles which recognise and protect the rights of the Indigenous people. Nevertheless, past attitudes towards the educational and scientific benefits of exhuming and retaining certain remains still took precedence over cultural wishes and respect.[57] It is the acceptance of traditional archaeological reasoning and investment in the further study of deceased persons and continued exhumation of their remains that blatantly deny the cultural wishes of the dead. Scarre reiterates that as a practicality for researchers, it is in their own interest to study the dead, rather than the living, as the dead can defend neither themselves nor their individual interests.[58]

Difficulties lie with what constitutes 'respectful treatment' of the dead, what its manifestation in practice involves, and whether or not the deceased person would recognise the archaeological treatment of themselves, or their funerary objects, in the same respectful manner.[59] Though, as Soren Holm has remarked, ascertaining whether the deceased person would perceive the intended act of dignity to be acceptable, as portrayed by archaeologists and researchers, can only be achieved by knowing what the person would perceive to be dignified,[60] in order to ascertain

[54] Scarre, G., op. cit., p. 671.
[55] Ibid.
[56] Adopted by the World Archaeological Congress (WAC) in 1990, surrounding the ethical concerns of science and treatment of the dead (Fforde, C., 2014, p. 7612).
[57] Ibid.
[58] Ibid., p. 672.
[59] Ibid.
[60] Holm, S., 'The privacy of Tutankhamen: utilising the genetic information in stored tissue samples', *Theoretical Medicine and Bioethics*, Vol. 22, No. 5, 2001, p. 446.

this, background information on the deceased must be known.[61] That being said, acquiring background information on the deceased can only be achieved under certain circumstances through archaeological involvement and scientific or anthropological research. Due to the cultural separation between the researcher and the researched, Scarre argues that the difficulty of acquiring such knowledge is enhanced, with researchers previously relying on guesswork as a substitute.[62] In the case of many Indigenous human remains, living descendants are present within the community, providing archaeologists and researchers with the opportunity to determine additional relevant information on the necessary respectful treatment of their deceased people. Scarre alludes to archaeologists' struggles when 'confronted with baffling world views', specifically those which differ from their own.[63] Therefore, while archaeologists and researchers mean well in their respectful treatment of human remains, their views are incongruent with those of the deceased and their traditional customs. In effect, their efforts are liable to be perceived to be inadequate to those who believe that the dead are a subdivision of the living.[64] With the growing Indigenous community and public interest in human remains, archaeologists can no longer ignore the pressure to open up their practices to wider consultation and input.[65] Additionally, growing cultural concerns and changing societal perceptions and values have altered the platform and role which museum form within society, with ethical practices which represent contemporary attitudes and evoke the respectful treatment and representation of minority cultures instilled within museum frameworks.[66] Edson stresses that respect is at the core of ethical practice within museums, with the ideal of 'good' and attitude of 'truth' being essential components in its display.[67] Additionally, Edson emphasises: 'Ethics defines the principles that are identified with the practical activities of a museum.'[68] Even so, ethical codes are not legally

[61] Scarre, G., op. cit., p. 669.
[62] Ibid.
[63] Ibid.
[64] Ibid.
[65] Orr, E. R., Bienkowski, P., op. cit., p. 3.
[66] Edson, G., *Museum Ethics in Practice*, Routledge: New York, 2017, pp. 6–19.
[67] Ibid., pp. 6–7.
[68] Ibid.

binding but are fluid, being subject to change as society itself changes.[69] Ethics, therefore, serve to encourage high standards of behaviour within museums and aid those making influential decisions within institutions, ensuring that public confidence in institutions and their practices is appropriate and maintained, and their representation within the public sphere upheld.[70]

Through changes in ethical codes of conduct and curatorial practices within museums so as to reflect and acknowledge cultural diversity and shifts in societal attitudes, attempts to educate audiences regarding cultural concerns and moral implications in the display and function of human remains within museums and their collections have encouraged institutions to enquire as to whether this notion of 'respect for the dead' is still recognised in the twenty-first century. While Western society may question whether demonstrating respect for the dead is merely a hangover from the past, when it was believed that the dead might still retain an active influence on the living and that one might re-encounter them in either this life or a future life[71], for some Indigenous cultures in which ancestors and the spirit realm are significant components of their cosmology and epistemology, respect for the dead is still an active component in their cultural beliefs and practices. It is apparent that while Western society may question the attribution of respect towards unknown figures, Scarre suggests that both respect and disrespect belong to a class of 'attitudes', which include remembering, admiring, regretting, praising, and being proud or ashamed, which can be felt towards no-longer-existent persons and things.[72] These attitudes are universal and are applicable to any culture or community.

The subsequent removal of Australian Indigenous human remains from display and attempts to 'cover up' human remains within UK and Australian museums can

[69] Marstine, J., 'The contingent of the new museum ethics', in *The Routledge Companion to Museum Ethics: Redefining Ethics for the Twenty-First-Century Museum*, Marstine, J., (ed.), Routledge: London & New York, 2011, p. 7.
[70] Martine, J., (2011); Edson, G., (2017).
[71] Grayling, A. C., 'Thatcher: Respect for the dead is an outdated and foolish principle', *Independent*, 9 April 2013, <http://www.independent.co.uk/voices/comment/thatcher-respect-for-the-dead-is-an-outdated-and-foolish-principle-8566448.html> [accessed 29/07/16].
[72] Paine, C., (2013, p. 57); Scarre, G., (2013, p. 668).

be suggested as decisions to demonstrate a level of cultural and personal respect, and as changes in public opinion, counteracting past institutional decisions and disregard for previously displayed attitudes towards the rights and cultural beliefs of Indigenous people and their ancestors. Additionally, what is socially considered politically correct and ethically moral may also serve as a contributing factor in an institution's decision to remove or cover up human remains within public spaces, ensuring that visitors are not perturbed or distressed by what they encounter during their visit. Tiffany Jenkins, an avid supporter of the retention of human remains within cultural institutions, remarked that within the UK, this decision to remove and cover up human remains on display is not driven by public demand but by professional insecurity, which may prove detrimental to the educational function which human remains and the museum have for the general public.[73] The decision to remove and cover up human remains within UK institution displays can be perceived to be an educational move to remind viewers of the humanity and sanctity of these remains and the cultural and personal respect to which they are entitled. In addition, the removal of human remains from public display allows for other cultural facets to be explored and various objects displayed in their place.

General public opinion may question the reasoning behind the removal and subsequent return of Australian Indigenous ancestral remains from UK institutions. The removal and repatriation, however, of both provenanced and unprovenanced Australian Indigenous ancestral remains provides the opportunity for Australian Aboriginal and Torres Strait Islander peoples[74] to demonstrate their sense of respect towards ancestral beings, propelled by their inherent identity and spiritual connection with their community and 'Country'.[75] This also fulfils their cultural responsibility as living descendants and kin.[76]

[73] Harris, S., 'Hide your mummies! Museum displays of human remains are covered up for fear of offending Pagans', *Daily Mail Online*, 1 November 2010, <http://www.dailymail.co.uk/news/article-1323443/Museum-displays-human-remains-covered-fear-offending-pagans.html> [accessed 29/08/16].

[74] 'Aboriginal' refers to Indigenous people who live within Australia, whereas 'Torres Strait Islander' refers to Indigenous people who reside on the Torres Strait Islands (a group of around 274 small islands). Collectively, these two groups are referred to as the Australian Indigenous people.

[75] See Glossary of Terms for the definition.

[76] Fforde, C., Hubert, J., Turnbull, P., (2004); Glaskin, K., et al., (2008); Turnbull, P., Pickering, M., (2010).

Though there are around five hundred known Aboriginal community groups or 'nations' throughout Australia, all with their own distinctive cultural practices, beliefs and languages, 'kinship' systems and family ties act as 'cohesive forces' which serve to connect Aboriginal people from all over the country together.[77] According to Kleinert and Neale, the Aboriginal concept of 'kinship' is given not only to the relationship between people, but also to relationships with the land,[78] which plays an influential part in establishing an individual's identity.[79] Each member within a community or 'tribe' is ascribed a place within his or her kinship system from birth and is regarded as a family member.[80] Bourke and Bourke reiterate that while each Australian Aboriginal community has its own traditional cultural practices, and linguistic and physical boundaries, it is kinship which allows such communities to live harmoniously, abiding by set codes of behaviour which must be met, and taking on various community responsibilities and obligations which serve to unite them as a social unit.[81] The close correlation between and influence of kinship and Aboriginal 'Dreaming'[82] are emphasised by Bourke and Bourke, as 'Dreaming' or 'Dreamtime' is not singularly a cosmology, an account of creation and all that is around, but is additionally regarded as a 'cosmography', providing depictions of the order of all living things, or more precisely a moral code by which to live.[83] The differing stories of Aboriginal Dreaming are viewed as philosophical oral literature which encompasses unique morals and cultural values of individual communities which include rules of traditional kinship.[84] Bourke and Bourke argue that Aboriginal family obligations

[77] Bourke, E., Bourke, C., 'Aboriginal Families in Australia', pp. 48–-49, in *Families and Cultural Diversity in Australia,* Hartley, R., (ed.), Allen & Unwin: Australia, 1995, pp. 48–-69.
[78] Kleinert, S., Neale, M., (eds.), *The Oxford Companion to Aboriginal Art and Culture*, Oxford University Press: Melbourne, 2000, p. 60.
[79] Zierott, N., *Aboriginal Women's Narratives: Reclaiming Identities*, LIT Verlag: Munster, 2005, p. 29.
[80] Berndt, R. M., (1974); Bourke, E., Bourke, C., (1995); Berndt, R. M., Berndt, C. H., (1998).
[81] Bourke, E., Bourke, C., op. cit., p. 49.
[82] 'Dreaming' is an English translation of the Arunta (Aranda) term *'altjiranga ngambakala'*. Elsewhere in Australia the same concept is referred to as *djuguba* or *djugurba (tjukubi)* (throughout the Great Victorian Desert), *duma* (in the Rawlinson Range), *djumanggani* (in the Balgo area), *ngarunggani* (in East Kimberley), *tjukurrtjanu* (by the Pintupi), *bugari* (around La Grange and Broome), *ugund* (among the Ungarinjin), and *wongar* (in northeastern Arnhem Land) (Hume, L., 2002, p. 28).
[83] Bourke, E., Bourke, C., op. cit., p. 52.
[84] Ibid.

are often viewed as 'nepotism' by other Australians, with non-Aboriginals preferring communities to follow European societal standards.[85]

Berndt and Berndt explain that the continuum of life in Aboriginal religion does not start and end with death, but is rather open-ended, with death viewed as a transition of form from one facet of human existence to a spiritual existence, with the spirit or soul of the deceased re-joining the Ancestral Beings in the Dreaming and environment or reincarnated through rebirth.[86] In this sense, mortuary rituals themselves can be regarded as an equivalent to initiation rites, where the individual moves to another phase of existence; as such, they are subsequently viewed as important cultural practices.[87] Berndt and Berndt emphasise that the spirit of a dead Aboriginal individual may still linger within its former body for as long as it remains within the vicinity, before leaving and joining Dreaming.[88] Additionally, disgruntled or unhappy spirits have the power to harm their kin and others; therefore, adequately performing relevant mortuary rituals is essential, but still may not fully appease angered spirits.[89] It is in respect of these concerns that corpses are presided over in community-specific ways to ensure that no harm comes to the community and the spirit of the deceased moves on to the 'Land of the Dead'.[90] Ensuring that ancestral spirits are provided with respect and appropriate mortuary practices, in order to move from one form of existence to another, whereby maintaining the continuance of the cyclical process of life after death, can be regarded as one of the main driving forces for present-day Australian Indigenous communities in their fight for the return of their ancestors, both provenanced and unprovenanced, from public displays and museums on a global scale.[91]

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[85] Ibid., p. 49.

[86] Berndt, R. M., (1974); Berndt, R. M., Berndt, C. H., (1998, pp. 453–-486).

[87] Berndt, R. M., Berndt, C. H., *The World of the First Australians: Aboriginal Traditional Life: Past and Present*, Aboriginal Studies Press: Canberra, 1988, p. 478.

[88] Ibid.

[89] Ibid.

[90] Ibid.

[91] Berndt, R. M., Berndt, C. H., (1988); Simpson, M. G., (2001); Besterman, T., (2004); Fforde, C., (2004); Fforde, C., Hubert, J., Turnbull, P., (2004); Turnbull, P., Pickering, M., (2010); Pickering, M., Gordon, P., (2011); Victorian Aboriginal Heritage Council (2014).

Even though the demonstration of cultural respect and kinship obligation play prominent roles in the Australian Aboriginal and Torres Strait Islander fight for the return of their ancestors' remains, there is an underlying fear among many Australian Indigenous communities of the cultural repercussions which could be triggered when neglecting to reclaim their ancestors and heritage for future generations. This failure would consequently serve to reflect negatively on their own sense of identity and moral responsibilities to kinship ties. Museums, however, have sought to adopt 'neutrality' as a form of respect demonstrated through the retention and maintained care of the numerous human remains and objects within their custody.[92] Even so, the application of 'neutrality', though initiated as an act of respect, can, in turn, be considered disrespectful, as it negates and suppresses the rights of the Indigenous people and their ancestral remains to be returned to 'Country'. Therefore, in removing Australian Indigenous human remains from public display and repatriating them to Australia or their originating community for burial, cultural institutions are acknowledging the Australian Indigenous people and are also respecting both their tangible and intangible heritage.

Methodology

This thesis draws specific attention to institutional processes and practices of the repatriation of human remains, focusing specifically on the dilemma which unprovenanced Australian Indigenous ancestral remains pose for museums within Australia and the UK. This thesis seeks to analyse and critique institutional and curatorial systems, both past and present, constructed to display and safeguard Australian Indigenous ancestral remains within their collections, whilst examining the shifts in curatorial and legislative practices which recognise and acknowledge Australian Indigenous opposition and cultural needs and beliefs.

[92] Giesen, M., White, L., 'International Perspective towards Human Remains Curation', in *Curating Human Remains: Caring for the Dead in the United Kingdom*, Giesen, M., (ed.), The Boydell Press: Woodbridge, 2013, p. 21.

Based on the limitations of literature pertaining to the process of repatriating Australian Indigenous ancestral remains with little to no known provenance from both UK and Australian cultural institutions, and as an issue which has more recently been brought to the fore of debate, I have relied on information gained directly from museum professionals who are and have been involved in the repatriation process, have previously participated in provenancing projects often with Australian Indigenous community members, or have taken part in the academic discourse surrounding the repatriation of human remains and the restitution of cultural materials. While this thesis displays a lack of primary interaction with widespread Australian Indigenous communities within the discussion, it cannot be inferred that the issue of repatriation, as a whole, is not a concern for all of the Australian Indigenous people, or that they should be denied the opportunity to take part in consultations and the decision-making process surrounding the interment of both provenanced and unprovenanced ancestral remains. That being said, as unprovenanced remains do not have a known affiliated community to speak on their behalf, the process of repatriating unprovenanced remains is, at this primary stage, a dilemma ultimately directed towards institutions, to liaise and respond accordingly as temporary custodians of the ancestral remains within their collections. It is for these direct reasons, in addition to a desire to ascertain how museums and curatorial staff acknowledge and process Australian Indigenous ancestral remains for repatriation, that focus is directly targeted towards institutional personnel, repatriation policies and curatorial practices.

Indigenous communities throughout Australia are diverse in their mortuary practices and cultural opinions, specifically in opinions surrounding the repatriation of ancestral remains, as noted within the ACIR 2014 National Resting Place Consultation Report.[93] Therefore, for this thesis, acquiring feedback from widely dispersed Australian Indigenous communities regarding the appropriate solution to unprovenanced ancestral remains would be extensive, and perhaps, as

[93] Australian Government, 'National Resting Place Consultation Report 2014', Advisory Committee for Indigenous Repatriation, *Department of Communications and the Arts*, Canberra, 2015.

illustrated by the responses from the ACIR's 2014 national survey, may only serve to mimic the varied results previously obtained from participating communities. Fundamentally, as the main focus of this thesis is on the repatriation of unprovenanced Australian Indigenous ancestral remains from Australian and UK museums, and though community input cannot be disregarded within this issue, focus is placed on museum initiatives and solutions in order to ascertain an appropriate method of repatriating unprovenanced ancestral remains.

Even though interaction and consultation with Indigenous community groups throughout Australia would prove highly beneficial in determining whether a definitive and unanimous solution to 'unprovenanced' ancestral remains could be ascertained, it is, however, ultimately up to individual institutions and governmental bodies to instigate such initiatives through examining and acknowledging Australian Indigenous concerns and claims. Therefore, in examining the dilemma which 'unprovenanced' ancestral remains pose within the repatriation debate, shifts in previous Australian Indigenous opinions, cultural beliefs, and objections towards the treatment of ancestral remains within cultural institutions can be highlighted. The differing opinions surrounding provenance and the significance of understanding kinship, land interconnectedness and identity from Aboriginal and Torres Strait Islander peoples are fundamental within this issue and the overall thesis. Focus is drawn towards current publications from Australian Indigenous and non-Indigenous sources surrounding the issue of unprovenanced Australian Indigenous ancestral remains, including newspaper articles, media releases and policy advisory panel opinions, in addition to academic and curatorial responses.

In conducting interviews and distributing questionnaires to various museum professionals and associated repatriation scholars within the UK and Australia, I aimed to acknowledge not only how the process and acceptance of repatriation were initiated, but also how they progressed. This is achieved through investigating museum repatriation policies and collection management strategies, highlighting the various benefits that UK and Australian institutions have gained through the repatriation process and their interaction with Indigenous

community members. Additionally, through the questionnaires completed and interviews conducted, I have endeavoured to gain an understanding of the developing issues pertaining to unprovenanced remains within Australian and UK museums, while examining institutional and curatorial practices to ascertain their approach to acknowledging the dilemma which these ancestral remains pose. These approaches should ultimately help to provide additional context to current repatriation ideas and practices within both Australia and the UK, and should help to divulge differing institutional opinions on repatriation. This, in turn, should prove beneficial in discovering whether there can be any future prospects for 'unprovenanced' Australian Indigenous ancestral remains stored within institutional collections.

Thesis outline

In order to fully understand how the issue of unprovenanced Australian Indigenous ancestral remains has occurred, background information on the history and reasoning behind the collection, and the subsequent display of Australian Indigenous human remains within Australian and UK museums, must be examined.

Chapter One: Australian Indigenous human remains in museums: from the eighteenth century to the present day will highlight the reasoning behind why the Australian Indigenous people, specifically their skeletal remains, were so highly sought after by the Western world during the late eighteenth century. This includes the reasons as to why their ultimate return to Australia and originating communities is of immense importance to both living Australian Indigenous people and the spirits of the deceased ancestors. It is therefore important to understand past colonial ideologies surrounding the exploration and mass collection of curiosities and specimens from the many countries encountered, including the influence of scientific evolutionary theories and scientific analysis on the comparison and distinction of various species throughout the world. In addition, understanding how, and why, Australian Indigenous human remains

came to be housed within European institutions must be examined in order to fully comprehend the magnitude of the cultural impact that their constant placement within museum displays has on both the general public and living Australian Indigenous communities. This includes the reasoning behind the 'rejection' and denial of Indigenous cultural beliefs and rights displayed by cultural institutions prior to the 1980s. Both sides of the repatriation debate must be acknowledged and examined. This includes previous reasons and decisions behind the retention of Indigenous human remains and significant Indigenous specimens which are deemed valuable due to plausible scientific discoveries which may serve to provide educational insight and influential knowledge for the benefit of the general public and the Australian Indigenous people.

However, as an issue centred on ancestral human remains which are spiritually connected to Indigenous groups present within modern society, ethical and moral obligations have prompted the need for institutional and governmental reflection in their approach and attitude towards ancestral remains within institutional collections. Cultural recognition and acceptance of the needs of living Indigenous groups have, since the 1990s, become better recognised, with their cultural wishes and beliefs increasingly reflected within museum practice. Attitudes towards the push for repatriation within the UK and Australia differ vastly, with various cultural and historical influences fluctuating in intensity in the push for the return of all Australian Indigenous ancestral remains within institutional collections to Australia and their originating community.

Chapter Two: Repatriation policies and procedures within Australian and UK museums introduces the implementation and construction of repatriation policies and procedures within UK and Australian museums, highlighting the various processes involved in the repatriation of Indigenous ancestral remains. The initiation of independent institutional criteria regarding community claims and required levels of cultural affiliation, as well as the introduction of political legislation and governmental encouragement towards the continuous repatriation of Australian Indigenous human remains, will be discussed. As the dilemma of unprovenanced Australian Indigenous ancestral remains has occurred

as a more recent obstacle encountered by museums, this chapter will examine the presence of implemented policy and procedural requirements, and various restrictions pertaining to the repatriation of unprovenanced Indigenous ancestral remains from museum collections. The lack of information and guidance detailing the appropriate methods of addressing the repatriation of unprovenanced remains within UK museum policies will be further examined in order to understand their application and limitations. In addition, the presence of various contentious terminologies within repatriation policies and the varying use and application of those specific terms within both Australian and UK museums will be examined, as they shed light on the attitudes of the individual institutions.

The discrete differentiation in individual institutional repatriation policies and the function of Australian Indigenous human remains in respect of UK university museums and national museums are of particular interest within the argument for and against repatriation. By drawing specific attention to university museums within the UK, a greater representation of the academic position on the issue of repatriation can be examined. Moreover, this chapter will highlight the Australian government's decision to encourage and enforce the process of repatriation, emphasising its desire for reconciliation, alluding to the country's underlining expression of guilt and ethical controversy surrounding the past treatment of and the injustices inflicted upon the Australian Indigenous people. This, in turn, ultimately questions the governing institution's sincerity and possible agenda with regard to the sudden focus on Australian Indigenous repatriation, including the validity and subsequent development of various provenancing and repatriation projects and agencies.

While both Chapter One and Chapter Two do not specifically examine the dilemma of unprovenanced human remains per se, they do, however, serve a fundamental purpose in outlining historical relevance as to why Australian Indigenous human remains were collected during the nineteenth century and viewed as highly valued 'objects' for evolutionary theorists, collectors, and museums. More importantly, these chapters are constructed to highlight the shift in political and public ideologies and attitudes surrounding the display and function of Australian

Indigenous human remains within public institutions. This includes examining the reasons as to why recognition and acknowledgment of Indigenous cultural rights and autonomy were intrinsic in the development of progressive governmental legislation and institutional policies and repatriation practices. Furthermore, the development of the concept of repatriation is now readily acknowledged and acclaimed, in contrast to the vast opposition that was, and to some degree still is, expressed by some archaeologists, physical anthropologists, and curators. Ultimately, these chapters chart chronologically the history of collecting and repatriating Australian Indigenous ancestral remains within Australia and the UK, including the development of museum policies and regulatory practices and, through their application, the development of the unprovenanced predicament and additional cultural concerns which must be acknowledged and examined.

Provenance, or specifically the lack thereof, is the key focal point of this thesis, acting as one of the major determinants of the repatriation process as a whole. *Chapter Three: The importance of establishing provenance* will focus on the cultural importance which provenance has to the Australian Indigenous people, the spiritual connection which living descendants have with their ancestors, and the landscape in which they live, not forgetting the importance of their 'Dreamtime', which influences their sense of being and cultural identity. All of these key issues contribute to the reinforcement of Australian Indigenous demands for repatriation on a global scale. Within this chapter, an analysis of the complex issues that unprovenanced remains maintain for UK and Australian museums, including those affecting living Australian Indigenous communities, will be examined.

Unprovenanced ancestral remains are a particular problem for present-day museums, as they heighten the struggle for curators and repatriation authorities in finding an appropriate place for burial within non-community boundaries. As a result, unprovenanced remains are continuously confined within museum repositories. In addition, it is the inability to establish an affiliated community which, due to repatriation policies and procedures within the UK, halts the process of repatriation and, therefore, restricts the ability for unprovenanced remains to

be claimed and returned to a community. Individual institutional policy definitions, specifically pertaining to what is classified as 'adequate' cultural affiliation or provenance from Indigenous community claims made, need to be examined in order to comprehend institutional reasoning and underlying inconsistencies in the repatriation of any unprovenanced ancestral remains restricted by these regulations.

Due to the central role which provenance plays, it is essential to examine and understand how provenance can be established, by examining previously applied and currently used methods and techniques. The maintained integrity of the ancestral remains is viewed as culturally significant, with the invasive nature of various scientific techniques employed for provenancing posing a serious ethical and moral dilemma for museums and Australian Indigenous communities. This problem requires strict adherence to museum policies and guidelines when ascertaining an appropriate method and non-invasive technique, in the hope of distinguishing a plausible locality of origin. Although this chapter ultimately illustrates the predicament and cultural dilemma with which Australian Indigenous communities are faced, it does, however, highlight community and museum involvement and cooperation, ensuring that these lost ancestors are respected and their integrity upheld during provenancing.

Chapter Four: Establishing a National Resting Place in Australia for Indigenous ancestral remains illustrates the current approach which the Australian government, through the Advisory Committee of Indigenous Repatriation (ACIR), has brought forth to rectify the issues surrounding the repatriation of unprovenanced Australian Indigenous ancestral remains from both national and international institutions. Therefore, this chapter will examine, in depth, Australia's process of establishing a plausible National Resting Place, specifically designed to house unprovenanced ancestral remains, as well as the temporary storage of repatriated ancestral remains at the request of affiliated communities. Focus will be on the ACIR's 2014 national survey and final report upon the establishment of a National Resting Place. This includes examining the ACIR's decision to promote certain options regarding the form and function of the

National Resting Place within its survey, and the permanency of ancestral interment within the designated location.

With the issues surrounding unprovenanced ancestral remains posing particular concerns within the repatriation process, it is imperative to incorporate the 'voice' of Australian Indigenous communities, as well as institutional authorities, in this process, as, fundamentally, the construct of such a place is an act of acknowledgment of Australian Indigenous needs and cultural traditions. That being said, examination of several responses to the ACIR survey from various participating Indigenous communities, and cultural organisations, throughout Australia will additionally be observed, as they emphasise the potential cultural conflicts and distinguishable differences between communities in their approach to this dilemma. When examining Australian Indigenous responses to the survey, complexities of this issue were observed, and the difficulties highlighted in ensuring that the opinions and wishes of different Australian Indigenous communities were being considered and represented throughout the decision-making process.

Furthermore, the initial construction and development of the 'name' of the place, and the specific terminology applied, will be outlined due to its reflective negative connotations and imperialistic association previously employed by cultural institutions throughout Australia. Discussions with Australian museum authorities surrounding their feelings towards the benefits and disadvantages of the construction of a National Resting Place will be highlighted, as they provide insight into the varying perspectives from institutional personnel at the fore of the unprovenanced predicament.

Though the thesis focuses specifically on the repatriation of unprovenanced Australian Indigenous ancestral remains from Australian and UK museums, *Chapter Five: Comparative approaches to unprovenanced ancestral remains: the United States of America and New Zealand* will draw comparisons with other Indigenous communities, such as the Maori and Native Americans, in order to assist in understanding the complexity of the issues pertaining to unprovenanced ancestral remains and the development of relevant policies on a more global scale.

This chapter will assess how these Indigenous communities, and respective associated institutions, have approached the issue of unprovenanced ancestral remains and have sought an appropriate solution. Examination of the various Indigenous burial practices of the Maori and Native Americans will highlight not only their unique differences, which must be considered in the establishment of a solution, but also the distinct cultural similarities which are dealt with in varying and distinctive ways, highlighting their differing progression in the deliberation and process of reburying unprovenanced Indigenous ancestral remains. Drawing on institutional repatriation policies and approaches to unprovenanced remains will aid in demonstrating the presence and magnitude of the issue within each country, accentuating the necessity of overcoming this dilemma in an appropriate and culturally sensitive way. By focusing on repatriation policies and governmental legislation surrounding Indigenous people and their cultural rights within New Zealand and the United States of America, both Australia and the UK can draw from their examples and adapt or adopt procedures or plausible solutions in an attempt to resolve concerns.

Though at present the establishment of a definitive solution to the repatriation of Australian Indigenous ancestral remains is still in discussion, *Chapter Six: Methods to consider in the approach to understanding the unprovenanced dilemma: Australia and the UK* will examine future options which can be employed within both Australia and the UK in order to initiate the possibility of allowing Australian Indigenous ancestors within institutional collections to be returned to either their community, state of origin or 'Homeland'. Within this chapter, the relationship that institutions and Australian Indigenous communities build in the construction and representation of their Indigenous culture will be discussed, highlighting various plausible constructs which could be developed in order to heighten the Australian Indigenous identity within the public and international domain, with the possible installation of their own nationally recognised institution.

As the construction of a National Resting Place within Australia will be discussed within Chapter Four, focus will be upon how UK institutions can re-examine their repatriation policies and guidelines in relation to unprovenanced remains. This

re-evaluates not only their position on the issue, but also the manner in which they can employ non-invasive methods and present resources to support the repatriation of unprovenanced Australian Indigenous ancestral remains from their collections, or aid in the establishment of a plausible provenance. Furthermore, discussion surrounding the use of other plausible suggestions regarding the reburial of unprovenanced Australian Indigenous ancestral remains within Australian institutions will be examined, looking at techniques that can, at present, be applied through the use of resources which accompany repatriated unprovenanced remains or through community involvement and discussion.

Conclusion: Reflections on the continuous dilemma that unprovenanced Australian Indigenous ancestral remains pose for Australia and the UK will serve as a reflection on the cultural and institutional predicament which unprovenanced Australian Indigenous ancestral remains pose for UK and Australian museums and Australian Indigenous communities. It will draw on the various observations and arguments previously highlighted within the preceding chapters in order to reinforce the need for greater awareness of the unprovenanced dilemma and institutional acknowledgment that these ancestral remains hold a cultural affinity to the Australian Indigenous people and should subsequently be returned to their 'Country' or 'Motherland'.

Chapter One:

Australian Indigenous human remains within museums: from the eighteenth century to the present day

When the spirit is in another Country, they can't rest.
They are very sad.[1]
(Tommy May, member of the Kimberley Aboriginal Law and Cultural Centre, 2009)

Introduction

For centuries, humans have displayed a fascination with collecting, from everyday objects to the 'strange' and 'bizarre'.[2] With the assumed 'discovery',[3] and the search for new worlds, Western society sought to extend its knowledge of the world through the exploration, exploitation and colonisation of countries and cultures encountered.[4] This chapter serves as an explanation of and insight into the journey from the eighteenth century to the present day, highlighting and examining the different reasons as to why Australian

[1] Parker, K., 'Stolen Remains, Politics and Hope', *Koori Mail*, Issue 466, 16 December 2009, p. 44.
[2] Blom, P., (2004); Evans, R. J. W., Marr, A., (2006).
[3] Discovery* is a highly controversial word which is used very loosely within this context, as it must be recognised that the 'lands' encountered by Cook on his expeditions were previously occupied by Indigenous communities.
[4] Thomas, N., (1991, 1994, 2010); Russell, L., (2001).

Indigenous skeletal remains[5] and specimens[6] were collected and displayed within European museums, and the manner in which they were acquired. The scientific and physical anthropological insights acquired through expedition accounts of Indigenous encounters, Indigenous skeletal remains and living specimens will be discussed, highlighting the significance that Australian Aboriginal skeletal remains had for evolutionary theorists such as Darwin and Huxley, and the construction of 'Colonial Exhibitions'. Past European stereotypes of Indigenous people as 'barbaric' and 'savage' will be examined, as it not only provides an insight into the supposed superior Western mindset and ideals of civility in the eighteenth, nineteenth and twentieth centuries, but also sheds light on the developed distinction of Indigenous people as the 'Other'.

The expressed public outcry from both Indigenous and non-Indigenous people towards the treatment and display of Indigenous skeletal remains within museums will be examined. Additionally, the encouragement towards cultural discourse between source communities and museums will be highlighted in order to illustrate the benefits that cultural discourse provides for museums, curatorial practice and Indigenous communities. Moreover, the proposition of repatriating Australian Indigenous ancestral remains from UK and Australian museums will be briefly highlighted, with contemporary Australian Indigenous concerns over repatriation acknowledged and issues such as unprovenanced human remains brought to the fore of the debate.

[5] The term 'skeletal remains' is employed within this thesis to reflect Enlightenment ideologies and terminology readily employed from the eighteenth to twentieth centuries, reinforcing the anatomy and physicality of the remains as an object of study, rather than a human or ancestor from a community. The term 'human remains' will be used interchangeably within this chapter; however, it will be used in place of 'skeletal remains' following this chapter to reflect the terminology used and presented within museum policy and legislation, implemented from the late twentieth century to the present day.

[6] The term 'specimens' is used within this thesis to reflect Enlightenment ideologies and terminology used by collectors, ethnographers and scientists from the eighteenth to twentieth centuries. This terminology is used in reference to living Australian Indigenous people who were highly sought after for scientific research and objectified by Western (European) society, due to their distinct 'primitiveness' and lack of civility.

Collecting and displaying Australian Indigenous culture and 'specimens': from the eighteenth century to the present day

Following the European 'discovery' and exploitation of 'Native' African and American Indigenous communities, from the fifteenth century onwards, in an 'age of discovery'[7] and exploration, the race was on to traverse unknown seas and be the first to discover new and unknown lands. Fuelled by the desire to learn and enlighten their fellow compatriots, European explorers from the eighteenth to early twentieth centuries collected souvenirs and *curios* encountered during their exotic travels. Subsequently, upon returning home, collected curiosities were displayed, both privately and publicly, with investigations initiated into their newly acquired objects and their associated communities and cultures, captivating growing public interest. The popularity of ethnographical collections and the cultural narratives that they told were sought in order to enlighten and entertain audiences, specifically from the late eighteenth to nineteenth centuries.[8]

During the mid-eighteenth century and into the nineteenth century, the establishment of national museums, focusing on the display and incorporation of extensive collections from those such as Sir Hans Sloane (1660–1753),[9] General Augustus Pitt Rivers (1827–1900),[10] Frederick John Horniman (1835–1906)[11] and

[7] Love, R. S., *Maritime Exploration in the Age of Discovery, 1415-1800*, Greenwood Press: Connecticut & London, 2006.

[8] Altick, R. D., (1978); Pearce, S. M., (1995); Mauriès, P., (2002); Macdonald, S., (2011).

[9] Sir Hans Sloane**:** A physician by trade, Sir Hans Sloane was also an avid collector of objects from around the world. Having collected over 71,000 objects, upon his death Sloane bequeathed his collection to the British nation, which became the founding collection of the British Museum ('Sir Hans Sloane', *The British Museum*, <http://www.britishmuseum.org/about_us/the_museums_story/general_history/sir_hans_sloane.aspx > [accessed 04/08/17]).

[10] General Augustus Pitt Rivers: A General in the British Army, and an archaeologist hugely influential in the development of modern archaeology. Amassing an extensive collection of ethnographical items from all over the world, Pitt Rivers joined the Ethnological Society of London in 1861 and served as President of the Anthropological Institute in 1881–1882. His ethnographical collections form the basis of the Pitt Rivers Museum in Oxford ('Augustus Pitt Rivers (1827 - 1900)', *BBC*, <http://www.bbc.co.uk/history/historic_figures/rivers_augustus.shtml> [accessed 04/08/17]).

[11] Frederick John Horniman: A Victorian tea trader and philanthropist, he began collecting objects, specimens and artefacts. From his travels to destinations such as Egypt, Sri Lanka, Burma, China, Japan, Canada and the United States, Horniman amassed an extensive collection of natural specimens and artistic curiosities which he found fascinating ('Bringing the world to Forrest Hill', *Horniman Museum and Gardens*, <http://www.horniman.ac.uk/about/museum-history> [accessed 04/08/17]).

Sir Flinders Petrie (1853–1942),[12] allowed members of the public to gain a glimpse into the history of past ancient civilisations, and curiosities, from different cultures and communities throughout the world.[13] The popularity of such exhibitions within the UK, in addition to the desire for continuous investigation into the new and unusual, prompted museums to sponsor various expeditions.[14]

Scientific collections were highly sought after by universities and institutions because they provided a means by which to continue investigations into and interpretations of newly discovered specimens, including new species of animals, flora and fauna, insects, and, notably, the discovery of differing characteristics of the human race. In *Licensed Curiosity: Cook's Pacific Voyages*, Nicholas Thomas details that during the second half of the eighteenth century, collecting for the purpose of scientific insight was not necessarily praised within public opinion, arguing that 'the status of natural history was in no sense secure'.[15] Nevertheless, scientists sought to acquire as many specimens from expeditions to 'new worlds' in order to extend their knowledge through continuous investigation into the 'curious' and unknown. Though the scientific analysis of animals, insects, plants and cultural materials can be viewed as less invasive, scientific and physical anthropological interests in Indigenous people and their unique cultures were vastly desired, with examples for analysis and scrutiny intensely pursued.

[12] Sir Flinders Petrie: an English Egyptologist who is renowned for his contributions to the techniques and methods of field excavation, inventing a sequence dating method that made possible the reconstruction of history from the remains of ancient cultures. He excavated many of the most important archaeological sites in Egypt in conjunction with his wife, Hilda Petrie. In his position as the First Edwards Professor at University College London, he established an important collection of Egyptian antiquities primarily assembled for educational purposes. Today his collection remains an invaluable resource for academics and the general public (Drower, M. S., 1995).

[13] Evans, R. J. W., Marr, A., (eds.), *Curiosity and Wonder from the Renaissance to the Enlightenment*, Ashgate: UK & USA, 2006.

[14] Thomas, N., 'Licensed Curiosity: Cook's Pacific Voyages', in *The Cultures of Collecting*, Elsner, J., Cardinal, R., (eds.), Reaktion Books Ltd.: London, 1994, p. 116.

[15] Ibid.

Captain James Cook's (1728–1779) *Endeavour* expeditions (1768–1771)[16] to *Terra Australis Incognita*[17] not only led to the 'discovery' of various countries, including Australia and New Zealand, but also, through Cook's own detailed journals, as well as those of naturalist Sir Joseph Banks (1743–1820) and other members aboard the *HMS Endeavour,* provided great insight into the voyages and their encounters, with collected samples and illustrations depicting curious objects and specimens discovered on their journey around the Pacific Ocean. Though believing Australia to be *terra nullius,* Cook's own journals record his first observation of Indigenous Australians, detailing on 22 April 1770, at Brush Island, near Bawley Point:

> …and were so near the Shore as to distinguish several people upon the Sea beach they appear'd to be of a very dark or black Colour but whether this was the real colour of their skins or the Cloathes they might have on I know not.[18]

With the settlement of British colonies in Australia in 1788, settlers were faced with the realisation that they were not alone in this new and vast country. While it is believed that they initially feared the Indigenous Australians, due to their assumed barbarity and primitive appearance,[19] curiosity towards these unknown people and their culture grew.[20] Unfortunately, British dominance, expressed

[16] Departing England in 1769, Captain James Cook, Lieutenant at the time, was given command of the Endeavour. He was instructed to sail for Tahiti to observe the transit of Venus in 1769, in addition to ascertaining whether a continent existed in the southern latitudes of the Pacific Ocean. Though Cook was initially unsuccessful in finding any land, the Endeavour headed towards New Zealand. Sailing to what was known as New Holland in 1770, Cook sailed the eastern coast of Australia to Botany Bay. Though the Endeavour was struck with misfortune, with its collision with the Great Barrier Reef, the Endeavour, repaired, continued its journey towards England, sailing around Cape York and through the Torres Strait to Batavia, in the Dutch East Indies (present-day Jakarta), returning to England in July 1771. Frost, A., (1998); Thomas, N., (2010).

[17] *Terra Australis Incognita*, Latin for 'Unknown Southern Land', was a hypothetical continent first introduced by philosopher Aristotle, who deduced the presence of a southern land mass to counterbalance the earth and the land already known and present within the northern hemisphere. This term appeared on many maps between the fifteenth century and eighteenth century (Pearson, M., (2005); Estensen, M., (2006)).

[18] Chapter 8: Exploration of East Coast of Australia, April 1770, Captain Cook's Journal During His First Voyage Round the World, H.M. Bark Endeavour, 1768-1771 (A literal transcription of the original MSS with notes and introduction edited by Captain W. J. L. Wharton, R. N., F. R. S., Hydrographer of the Admiralty, Illustrated by maps and facsimiles, London, 1893, *Project Gutenberg Australia*, April 2016, <http://gutenberg.net.au/ebooks/e00043.html> [accessed 15/11/16]).

[19] Hiatt, L. R., (1996); Bennett, T., (2004); McNiven, I. J., Russell, L., (2005).

[20] Thomas, N., (1994); Bennett, T., (2004); McNiven, I. J., Russell, L., (2005, p. 5).

superiority, and a need to continually enforce their authority within the country perpetuated and reinforced their belief in the superiority of their culture and the need to instigate and demonstrate their dominance over those deemed 'inferior'.

With the numerous expeditions to Australia and the Pacific by Europeans during the nineteenth century,[21] a vast amount of cultural material was brought back to the European public. Racial stereotypes were developed, with anecdotes such as Stirling Castle (1836) depicting Indigenous Australians, as well as other Indigenous communities, as either 'malicious savages' or 'poor afflicted creatures'[22] in need of imperial influence. These various narratives, along with ethnographical depictions of the natives encountered, helped open the Pacific to Europeans and shaped a prejudiced perception of Indigenous people within Europe.[23] All of the various accounts recorded during Cook's voyages to the Pacific were collected by the British Admiralty upon the ship's return to England, as specified within Captain Cook's secret instructions dated 30 July 1768 (see Appendix 1). These records included the ship's logbooks, Captain Cook's extensive journals, William Hodge's sketches, Sir Joseph Banks' records of natural discovery, as well as other journals and material collected by the crew.[24] Having sponsored Cook's expeditions, the British Admiralty and the Royal Society of London acquired his records for use by ethnographers, physical anthropologists and British government officials as a means of providing important information.[25] Martin notes that voyages were as much about recording the 'natural' world and charting new lands as they were about the desire to expand the Empire.[26] Through the collection of expedition journals and pictorial accounts, it is evident that

[21] Love, R. S., op. cit. (see also Chronology Maritime Exploration and Discovery in Paine, L. P., (2000)).
[22] McNiven, I. J., Russell, L., Schaffer, K., *Constructions of Colonialism: Perspectives on Eliza Fraser's Shipwreck*, Leicester University Press: London, 1998, p. 4.
[23] Banner, S., *Possessing the Pacific: Land, Settlers, and Indigenous People from Australia to Alaska*, Harvard University Press: Cambridge, Mass., 2007, p. 7.
[24] Martin, J., 'Europeans in the Pacific: Cook and the Colonials', *New Zealand Online Journal of Interdisciplinary Studies*, Vol. 1, No. 1, <https://www.nzojis.co.nz/uploads/76603/files/Europeans in the Pacific Cook and the Colonials.pdf> [accessed 30/04/17].
[25] Ibid.
[26] Ibid.

British interest in the South Pacific was, therefore, a mixture of scientific curiosity and the political, strategic and economic desire for trade and riches.[27]

Though believed to be a superior race, Europeans, in their naivety, were unaware of the unique cultural practices of Australian Indigenous communities, enforcing their own cultural beliefs upon a community of people who are regarded today as one of the earliest groups of *Homo-sapiens* to migrate from Africa.[28] Anderson and Perrin's remark that the construct of racial stereotypes was invoked in order to support the colonisation of lands occupied by Indigenous people was 'irrefutable'.[29] Further to their argument, Anderson and Perrin highlight that the establishment of the idea of the 'Other'[30] by colonials was an attempt to reinforce their racial superiority and authority over Indigenous 'savages', thus serving to justify their acts of colonial dispossession and oppression.[31]

In her text, Maxwell remarks that in the age of high imperialism, the establishment of two types of mass-produced images of colonised people had an influential impact on the way in which non-Westerners were to be portrayed within twentieth-century popular culture.[32] In the mid-nineteenth and early twentieth centuries, 'International Exhibitions', also referred to as 'Colonial Exhibitions', encompassed live displays of allegedly 'primitive' people staged within metropolitan centres.[33] These exhibitions incorporated photographic images of non-Western people so as to form part of an emerging international tourist

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[27] Ibid.

[28] Kirk, T., 'Unprecedented study of Aboriginal Australians points to one shared Out of Africa migration for modern humans', *phys.org,* 22 September 2016, <https://phys.org/news/2016-09-unprecedented-aboriginal-australians-africa-migration.html> [accessed 27/08/17].

[29] Anderson, K., Perrin, C., 'Beyond Savagery: The Limits of Australian 'Aboriginalism'', *Cultural Studies Review*, Vol. 14, No. 2, 2008, p. 147.

[30] The 'Other' or 'Racial Othering': The process of 'Othering' requires the use of an us and them binary, where one group of people is perceived by another group as different or abnormal. Like gender, racial othering attempts to position and solidly fasten in place an irrevocable schema about a particular racial group. Through the use of stereotypes and generalisations, permanent meanings of human behaviour, culture and intelligence are conceptualised through a racial lens (Farenga, S. J., Ness, I., (eds.), 'Equality and Cultural Issues in Education', in *Encyclopedia of Education and Human Development*, Routledge: London & New York, 2015, p. 291).

[31] Anderson, K., Perrin, C., op. cit., p. 147.

[32] Maxwell, A., 'Preface', *Colonial Photography and Exhibitions: Representations of the 'Native' and the Making of European Identities*, Leicester University Press: London, 1999.

[33] Ibid.

industry.[34] It is apparent that, through the use of such photographic images, as well as human displays, the concept of colonial 'primitivism' was targeted towards Europeans on a more emotional level in comparison to colonial fiction or travel writing.[35]

[Fig. 1] 'Members of Robert A. Cunningham's Australian Aboriginal international touring company (1882-1888), Crystal Palace, London, April 1884', William Robinson (Photographer), Photograph, *National Gallery of Australia,* Canberra.

Maxwell continues, arguing that the visual representation of colonised people as 'savages' impinged physically and psychologically on the participating individuals, including their communities and descendants.[36] In *Peoples on Parade: Exhibition, Empire and Anthropology in Nineteenth Century Britain*, Qureshi highlights the 'primitive' stereotypes which were constructed, widely advertised, and adopted by the British public towards 'exotic' people displayed and illustrated within expedition journals and anecdotes. These exotic items included living specimens and representations of different cultures and people, as demonstrated in Fig. 1, who were purposefully brought back for display and scrutiny. With openly distributed advertisement and promotional pamphlets detailing these colonial displays and associated lectures, a direct method of endorsing specific racial ideologies and associations with foreign affairs, the general public were

[34] Ibid.
[35] Ibid.
[36] Ibid.

entertained and able to satisfy their curiosity towards unknown worlds without leaving the comfort of their own city.[37]

These visual representations helped to sustain imperialist expansion, and supplied Europeans with a new and empowering framework based on identity, racial and cultural characteristics.[38] This European imperialism, exploitation and racial discrimination, extending from the nineteenth century, are still, in some shape or form, present within metropolitan and settler-colonial societies today.[39] According to David Lowenthal in *Antipodean and Other Museums*, 'museums are meant to reflect not realities, but ideals and fantasies'.[40] These 'International Exhibitions', created as an educational function for the general public, not only informed visitors of the various international discoveries being uncovered during numerous expeditions, but also caused an eruption of scientific curiosity in the development of contemporary theories of humanity and race.[41] Maxwell highlights that the establishment of these exhibitions was a result of the growing interest in scientific theories of human evolution, and the differing perceptions of the origins of 'man'.[42] While museums were labelled as institutions which promoted and displayed factual evidence and artefacts, Maxwell suggests that curators constructed these exhibitions through exploiting age-old narratives surrounding cannibalism, through which the colonised were portrayed as flouting the taboos associated with civilisation.[43] These exhibitions displayed Indigenous people of the new worlds in pseudo-ethnographical ways.[44]

In the 1860s, 'Colonial Exhibitions' were used to highlight untapped colonial wealth, while in the 1880s, they were designed to justify the exploitative practices

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[37] Qureshi, S., *People on Parade: Exhibition, Empire and Anthropology in Nineteenth Century Britain*, University of Chicago Press: Chicago & London, 2011.
[38] Maxwell, A., op. cit., p. ix.
[39] Ibid.
[40] Lowenthal, D., 'Antipodean and Other Museums', Working Papers in Australian Studies, No. 66, *Sir Robert Menzies Centre for Australian Studies*, London, 1991, p. 2.
[41] Maxwell, A., op. cit., p. 1.
[42] Ibid., p. 2.
[43] Ibid.
[44] Leetberg, I., 'The Savage Art of the Human Zoo', *The Australian*, 20 February 2012, <http://www.theaustralian.com.au/arts/the-savage-art-of-the-human-zoo/story-e6frg8n6-1226275094305> [accessed 10/01/14].

in existing colonies, and the invasion of newly discovered lands.[45] In later years, these exhibitions were used to put in place 'noble sentiments' of the empire, reinforcing and strengthening colonial settlers' national identity.[46] These international exhibitions, many of which took place in Britain, France, Germany and America, were integral in the developed diffusion of progressive ideologies and early mass consumerism.[47] In addition to the Great Exhibition of 1851, the establishment of 'Colonial Exhibitions' or 'Human Zoos', also referred to as Völkerschauen[48] within Germany, Europeans and Americans were provided with the possibility of seeing, in the flesh, Indigenous people.[49]

One of the more celebrated Indigenous people to be transported internationally from his native home was a Tahitian man, Mai, or more commonly known as Omai[50] (1751–1780). Omai accompanied naturalist Sir Joseph Banks (1743–1820) back to Britain, wherein he was paraded within the salons of London.[51] Having originated from a previously unknown part of the world and society, he was thus branded as different and 'exotic'. In addition, Omai's presence within Western society reinforced a sense of the 'Other'. However, his particular association with the 'Other' was considered 'noble' rather than 'inferior', as the term later implied and was utilised during the twentieth century.[52] Unlike other Indigenous natives brought to Europe, Omai was permitted to return to his homeland, where he later died.

Saartjie Baartman (1789–1815), on the other hand, did not receive the same treatment as that of Omai. Referred to as the 'Hottentot Venus', Baartman was a young Khoikhoi woman from South Africa, who was brought to Europe due to her

[45] Maxwell, A., op. cit., p. 1.
[46] Ibid.
[47] Ibid.
[48] *Völkerschauen:* literal translation: 'shows or exhibitions of peoples', where, within Germany and Austria, small exotic spectacles were conducted, wherein Asian, African and Native American persons were displayed, often in sensational settings, to a public audience (Gingrich, A., 2005, p. 85).
[49] Maxwell, A., (1999); Barth, F., Gingrich, A., Parkin, R., Silverman, S., (2005); Poddar, P., Patke, R. S., Jensen, L., (2008); Qureshi, S., (2011); Dreesbach, A., (2012).
[50] Thomas, N., *Islanders: The Pacific in the Age of Empire*, Yale University Press: New Haven & London, 2010, pp. 5–7.
[51] Leetberg, I., op. cit.
[52] Ibid.

sexual allure and 'primitiveness'.[53] According to Crais and Scully, Baartman was believed to be regarded as 'more ape than human'.[54] Additionally, European scientists classified her as a *Homo sapiens monstrous* due to her uniquely 'large buttocks', which were scientifically labelled as a deformity due to their stark difference in comparison to pre-existing known human anatomy.[55] Scientists and physical anthropologists reinforced her 'ape' and 'animal-like' qualities by suggesting that she was incapable of displaying either emotion or intellect, relying solely on primitive instincts.[56] Upon her death, Baartman's body was subjected to scientific dissection, with investigation conducted into her peculiar deformity and anatomy.[57] Afterwards, her body was reassembled, and a full-body plaster cast made.[58] Her cast and skeleton were exhibited, side by side, at the Musée de l'Homme in Paris, until their removal in the 1970s.[59]

Similarly, Native Americans were also exploited and exhibited through spectacles such as Buffalo Bill's 1889 show 'Wild West and Congress of Rough Riders of the World'.[60] A staggering number of one million people experienced these shows, displaying Native Americans as bloodthirsty heathens, massacring colonials in brutal and barbaric ways.[61] These shows gave audiences a vehicle through which to define their own idea of 'Le Monde du Sauvage',[62] which ultimately were negative, fuelling colonial desire and legitimacy for continuous conquests, racial theories and a belief in Western civility and superiority.[63] Leetberg's article entitled 'The savage art of the human zoo' remarks on the crude nature of these 'Colonial Exhibitions', and the falsified narratives and characteristics implied as a

[53] Altick, R. D., (1978); Crais, C., Scully, P., (2009).
[54] Crais, C., Scully, P., *Sara Baartman and the Hottentot Venus: A Ghost Story and a Biography*, Princeton University Press: UK, 2009, p. 1.
[55] Ibid.
[56] Ibid., p. 2.
[57] Ibid.
[58] Ibid.
[59] Jenkins, T., *Contesting Human Remains in Museum Collections: The Crisis of Cultural Authority*, Routledge: London & New York, 2010, p. 118.
[60] Leetberg, I., op. cit.
[61] Ibid.
[62] Ibid.
[63] Ibid.

form of entertainment, rather than factual evidence and exhibition.[64] In 1885, Frankfurt, Germany, played host to an appearance of 'Male and Female Australian Cannibals' in R. A. Cunningham's touring show.[65] The poster advertising the spectacle announced:

> The first and only obtained colony of these strange, savage, disfigured and most brutal race ever lured from the remote interior wilds, where they indulge in ceaseless bloody feuds and forays to feast upon each other.[66]

Leetberg highlights the exhibition's requirement that the Australian Aborigines act out rituals of cannibalism, even though such an act had never been witnessed or practised within this specific community's culture.[67] These representations of Indigenous natives merely functioned to promote a generalised ideology which served to entertain and strengthen the superiority of the Empire, whereby initiating racial discrimination and instilling an implied sense of the 'Other'.[68]

Collecting Australian Indigenous skeletal remains and 'specimens' for scientific scrutiny and human evolutionary theories

In addition to living examples of 'Indigenous man', human remains were specifically sought after, as they provided a means of extensive and prolonged scrutiny and examination by physical anthropologists and medical experts. Through the interpretation and analysis of Australian Indigenous human remains, scientists were able to categorise humankind and expand their understanding of human evolution. Many of the human remains housed within UK institutions were taken without consent and without expressed concern or consideration for cultural protocols and implications, both emotionally and spiritually, for the

[64] Ibid.
[65] Ibid.
[66] Ibid.
[67] Ibid.
[68] Ibid.

deceased, their family or community.[69] As previously discussed, this inequality and discrimination is regarded as a result of nineteenth-century racial theories, and the classification of Indigenous people as 'savage' and 'primitive', lacking any civility and governed mainly by instinct. Pickering notes that as soon as ships arrived in Australia, Indigenous human remains were sent to Europe, specifically to medical institutions.[70] Additionally, it is remarked that until the 1960s, research involving Indigenous human remains was mainly conducted within university medical departments, with a particular focus on the unusual pathologies and attributes associated with varying Indigenous societies.[71]

In Britain, hundreds of Australian Indigenous human remains were acquired and shipped to varying universities and cultural institutions, including the Royal College of Surgeons in Dublin, Edinburgh and London, as well as the Natural History Museum in London and the Glasgow and Oxford Museums.[72] Australian Indigenous human 'specimens' and remains were predominately sought after within Europe, as they were believed to be the only living community of people who were the closest examples of 'primitive man'.[73] Furthermore, Farrington highlights that acquired Aboriginal remains served as instrumental ethnographical examples, providing a way in which to 'measure and quantify human diversity, and to prove preconceived notions of the racial hierarchy'.[74]

Charles Darwin's *On the Origin of Species* (1859) played an influential role in the construct of evolutionary theories during the late nineteenth century, with the introduction of his theory known as 'natural selection'. Darwin (1809–1882), an English naturalist and geologist, was heavily inspired by his discoveries while on

[69] Fforde, C., (2004; 2013, pp. 715–720); McNiven, I. J., Russell, L., (2005, pp. 200–205); Turnbull, P., (2008).
[70] Pickering, M., 'Policy and Research Issues Affecting Human Remains in Australian Museum Collections', in *Human Remains and Museum Practice,* Lohman, J., Goodnow, K., (eds.), UNESCO and the Museum of London: Paris & London, 2006, p. 43.
[71] Pickering, M., (2006); Hallam, E., (2016).
[72] Korff, J., 'Aboriginal remains repatriation: Remains repatriation timeline', *Creative Spirits*, April 2013, <http://www.creativespirits.info/aboriginalculture/people/aboriginal-remains-repatriation> [accessed 10/01/14].
[73] Ibid.
[74] Farrington, J., 'Intellectual' Property? Perceptions of the Possession and Repatriation of Aboriginal Remains, 25 June 2004, p. 4.

the *HMS Beagle* expedition (1831–1836). Drawing on plant and animal species discovered throughout his voyage, Darwin's observations of the environmental impact on the survival of the examined species, and the effects on its dominance and longevity, prompted his belief in the possible association of such a concept with the evolution of the differing species of man, as depicted within Darwin's *The Descent of Man and Selection in Relation to Sex* (1871).

British naturalist Alfred Russel Wallace (1823–1913) came to the same theoretical conclusions as those of Darwin, with 'natural selection' playing a direct role in the mechanism for evolutionary change. Both Darwin and Wallace attributed evolutionary change and superiority to certain variations, or mutations, in individual characteristics within differing species. It was therefore ascertained, through Darwinism, that superior characteristics, or genetics, were specifically desired, with weaker genetics resulting in the decline or extinction of a species. However, when applied to human evolution and racial disparities, civility and rationality, as defined by imperialist Western ideals and later assimilated into Social Darwinism, were categorically assigned as superior characteristics within human genetics, placing Western society on a pedestal of genetic supremacy.[75]

Social Darwinism, in contrast to Darwinism, incorporates a fundamental determinant which extends from the physical genetics of an organism to that of social attributions and existence.[76] Hawkins (1997) argues that while social attributes are features that are distinct and unique to humans, serving to distinguish humans from the rest of nature, the construct of culture is unable to be reduced to biological principles.[77] According to Hawkins, Social Darwinists believed two fundamental facts regarding human nature: that it is continuous with animal psychology, and that it has evolved through natural selection.[78] Therefore, the social particularities attributed to Social Darwinism, and the reflecting imperialistic ideals, were seen to be reinforced and adopted by medico-scientific

[75] Hawkins, M., *Social Darwinism in European and American Thought, 1860-1945: Nature as model and nature as threat*, Cambridge University Press: Cambridge, 1997, p. 31.
[76] Ibid.
[77] Ibid.
[78] Ibid.

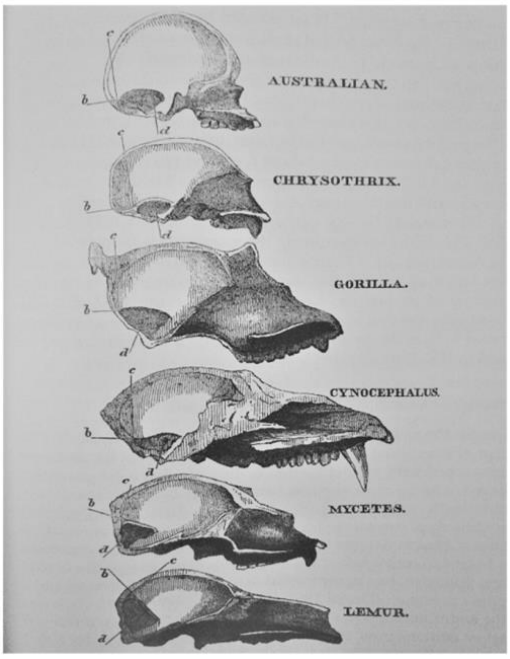
institutions, museums, and the general public from the late nineteenth to early twentieth centuries.[79]

The establishment of the Natural History Museum in London is a striking example of the influence of evolutionary theory within Britain, with its construction purposefully designed to cater to discovered natural history specimens, both immense and minute in size. Sir Richard Owen (1804–1892), an English biologist, comparative anatomist, and palaeontologist, was entrusted with the British Museum's natural history collection. Through his observations, Owen, too, formed his own theories of evolution, reaching beyond Darwin's 'natural selection' theory. Though Owen's evolutionary theory encompassed many facets intertwined with those of Darwin's theory, such as the possible element of transmutation,[80] he remained a critic of Darwin's work. Within his theory, Owen negated the possible association of man as a derivative of apes, placing mankind on an 'elevated taxonomic pedestal'.[81]

Thomas Huxley (1825–1895), a biologist and avid Darwin supporter, played a particular role in refuting Owen's theory by demonstrating the distinct similarities between ape and human cranial structures, in addition to brain formation, implying possible lineal descent between the two.[82] Though Huxley's theory of human evolution stands to argue that man is, 'in substance and in structure, one with the brutes',[83] Bennett emphasises that Huxley clearly defines that man is qualitatively distinct from 'the brutes'.[84] That being said, Huxley's inclusion of an illustration detailing a series of skulls of man and various apes, in his 1896 *Man's Place in Nature, and Other Anthropological Essays*, clearly points to Australian Indigenous skulls as a distinctive stage in the transfiguration and evolution of civilised modern humans (see Fig. 2). Undoubtedly, this depiction served as a

[79] Ibid.
[80] Rupke, N. A., *Richard Owen: Biology without Darwin*, University of Chicago Press: Chicago & London, 2009, pp. 147–148.
[81] Bennett, T., *Pasts Beyond Memory: Evolution, Museums, Colonialism*, Routledge: London & New York, 2004, p. 52.
[82] Ibid., p. 53.
[83] Bennett references Huxley, T. H., 'On the natural inequality of men', The Nineteenth Century, 1890, in Bennett, T., op. cit., p. 54.
[84] Bennett, T., op. cit., p. 54.

weighty precursor for the continuous fascination and mass collection of Australian Indigenous skeletal samples.



[Fig. 2] A primate evolutionary sequence using a modern Australian Aboriginal skull as the exemplar for ancient and primordial 'man', (Fig. 17 from Huxley, T. H., *Evidence as to Man's Place in Nature*, 1863).

While Darwin's theory of human evolution, or 'survival of the fittest', was highly regarded amongst British audiences and academics, with museums placing Darwinists in positions of influence and authority, such as curators,[85] this, however, was not the case within Australian museums.[86] Even though Australian museums were the main conduit through which Australian and Aboriginal cultural materials and specimens were acquired by European museums, Bennett suggests that evolutionary headway made little movement within Australian museums until the late 1890s.[87] The appointment of Walter Baldwin Spencer (1860–1929), an English-Australian biologist and anthropologist, to the Directorship of the National Museum of Victoria (1899), and later the Special Commissioner and Chief Protector of Aborigines in the Northern Territory (1912), coincided with, and

[85] Ibid., p. 139.
[86] Ibid.
[87] Ibid.

promoted, a shift in 'white' attitudes towards Aboriginal people within Australia.[88] Bennett examines this notion while drawing on Baldwin Spencer's remarks and the observed shift of 'colonial' attitudes towards Indigenous Australians from 'let die' to 'let live'.[89] This shift was initially propelled from the desire to eradicate the Australian Aboriginal race to their apparent safeguarding, through the establishment of 'civilising' programmes initiated to 'breed out' the 'black' through assimilation and to integrate Indigenous Australians within modern society,[90] a concept later attributed to what is referred to as the 'Stolen Generation'.

The Aboriginal people of Tasmania were particularly regarded as unique 'specimens' and highly sought after by Europeans, as they were believed to be the last prime examples of a living primitive community and culture, owing to their remote location and isolation from the rest of the world.[91] Due to the immense scientific value of these rare specimens, during the 1880s, Tasmanian Aborigines were pursued in the name of science and historical insight.[92] The remains of Truganini (1812–1876), famed as the last living 'full blooded' Tasmanian Aborigine, were exhumed following her death by the Royal Society of Tasmania, negating her dying wishes, and put on display at the Tasmanian Museum and Art Gallery for forty years.[93]

In the ever-increasing search for examples of Neanderthals, various inquiries sparked questions as to how these pre-*sapien* forms of early humans lived.[94] With the publication of Australian anthropologists Walter Baldwin Spencer and Francis James Gillen's accounts of the *Central Desert Australian Aborigines* (1896, 1899, 1927), many scholars believed Indigenous Australians to be living representatives

[88] Ibid., pp. 139–140.
[89] Ibid., pp. 154–158.
[90] Ibid., p. 140.
[91] Farrington, J., op. cit., p. 4.
[92] Korff, J., 'Aboriginal remains repatriation: Remains repatriation timeline', *Creative Spirits*, April 2013, <http://www.creativespirits.info/aboriginalculture/people/aboriginal-remains-repatriation> [accessed 10/01/14].
[93] Ibid.
[94] Gould, R. A., *Living Archaeology*, Cambridge University Press: New York, 1980, p. 88.

of the Stone Age,[95] and worthy of further study and understanding.[96] The drive to understand the process of human evolution, coupled with the desire for extended settlements and land ownership, led to the continuous genocide of Australian Aborigines.[97]

Live or let die: collecting Australian Indigenous skeletal remains to preserve and protect a dying race

As previously mentioned, European attitudes towards Indigenous Australians were mostly those of inferiority and 'savagery'. These same feelings were expressed by colonists within the settler colonies of Australia.[98] Nevertheless, the status of the land '*terra nullius*'[99] remained, and settlers sought to dominate through the acquisition of land and resources. This invasion forced Australian Aboriginals into desolate and inhospitable regions. Despite retaliation, settlers, with their dominance and superiority in battle, maintained their control within Australia and over the previous Indigenous inhabitants.[100]

Catriona Elder draws on popular evolutionary theories from this period, wherein Aboriginal people were represented at the bottom of the scale of human progress, placing 'white' men at its peak.[101] Elder highlights that in a competitive world in which 'survival of the fittest' was a widely positioned view, Aboriginal people were seen as unfit or unsuitable for the struggle and, thus, a group most likely to be

[95] Stone Age: period in time spanning 3.4 million years, ending between 8700 BCE and 2000 BCE and the commencement of the Bronze Age. Recent DNA analysis has confirmed Australian Indigenous people as 'direct descendants' of Australia's earliest settlers, and the world's oldest living culture, dating back ca. 50,000 years. Klein, C., 'DNA Study Finds Aboriginal Australians World's Oldest Civilisation', *History in the Headlines*, 23 September 2016, <http://www.history.com/news/dna-study-finds-aboriginal-australians-worlds-oldest-civilization> **[**accessed 15/12/16].
[96] Ibid.
[97] Simpson, M. G., (2001), pp. 173–189; Fforde, C., (2004); Parker, K., (2009a).
[98] Russell, L., (ed.), *Colonial Frontiers: Indigenous-European encounters in settler societies*, Manchester University Press: Manchester and New York, 2001.
[99] Latin name meaning 'nobody's land'. Used in international law to describe territory which has never been subject to the sovereignty of any state, or for which any prior sovereign has expressly or implicitly relinquished sovereignty.
[100] Fforde, C., (2004); McNiven, I. J., Russell, L., (2005); Turnbull, P., (2008); Atkinson, H., (2010).
[101] Elder, C., *Dreams and Nightmares of a White Australia: Representing Aboriginal Assimilation in the Mid-twentieth Century*, Peter Lang AG: Bern, 2009, p. 22.

usurped.[102] In addition, Elder notes that Australian Aboriginals were perceived to be a 'doomed race'.[103] Consequently, their death, at the hands of 'white' colonials, was not recognised as violence or ill treatment, but rather a demonstration of their lack of suitability for the new world of Australia[104] and an ultimate weakness in the 'natural selection' of human evolution.

This hierarchy, and preconceived ideals of native communities, established an element of 'Otherness' and alienation between 'white' Australians and the Indigenous people. In addition, many physical anthropologists and anatomists sought to acquire Aboriginal human remains through acts of 'grave robbing', and collecting all that they could acquire, in the pursuit of preserving what Europeans at the time believed to be a 'dying race'.[105] Tom Trevorrow, a member of the Ngarrindjeri Indigenous community,[106] addressed within the *Koori Mail* that during the 1890s, Dr. William Ramsay Smith (1859–1937), from Adelaide Hospital, abused his position of trust as a physician and coroner by supplying his *alma mater*, the University of Edinburgh as well as the Royal College of Surgeons in London,[107] with hundreds of Aboriginal human remains, as well as hair and skin samples.[108] Many of these Aboriginal remains have since been repatriated to the Ngarrindjeri community;[109] however, according to Wilson, the community have faced various cultural, political and economic concerns in respect of the reburial of repatriated ancestors.[110]

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[102] Ibid., p. 23.
[103] Ibid.
[104] Ibid.
[105] Hemming, S., Wilson, C., 'The First 'Stolen Generations': Repatriation and Reburial in Ngarrindjeri Ruwe (Country)', in *The Long Way Home: The Meaning and Values of Repatriation*, Turnbull, P., Pickering, M., (eds.), Berghahn Books: New York & Oxford, 2010, p. 186.
[106] Ngarrindjeri is an aboriginal nation of 18 language groups who occupied, and still inhabit, the Lower Murray, Coorong and Lakes area of South Australia (Australians Together, 2016).
[107] Ibid.
[108] Parker, K., 'Stolen Remains, Politics and Hope', *Koori Mail*, Issue 465, 2 December 2009, p. 42.
[109] Ngarrindjeri people are located in the Lower Murray River, Lakes and Coorong region of South Australia.
[110] Wilson, C., 'Implications and Challenges of Repatriating and Reburying Ngarrindjeri Old People from the 'Edinburgh Collection'', *Museum International,* No. 241–2, Vol. 61, No. 1–2, 2009, UNESCO Publishing and Blackwell Publishing Ltd., pp. 37–40.

Trevorrow stresses how the issue of 'grave robbing' was so extensive that various Indigenous community Elders demanded that Aboriginal coffins be left open, ensuring that they were not filled with sandbags in place of the deceased community member.[111] Likewise, Turnbull notes that evidence of the extensive efforts to prevent scientific theft from Australian Indigenous ancestral burial places dates back to the early years of colonial invasion (ca. 1788).[112] While it is most likely that Europeans were not fully aware of the cultural traditions and variation of mortuary practices of Australian Aboriginal people, opposition from Aboriginal community members did not deter the continuous collection of ancestral remains. As a consequence of European cultural ignorance and the lack of ethical consideration, Australian Aboriginal skeletal remains were removed from their traditional place of burial, such as within the ground or hollowed-out tree trunks, as they believed the remains to be abandoned.[113]

During the 1990s, archaeologists excavated various Australian Indigenous grave sites, collecting remains exposed on the surface level, eroding out of embankments or disturbed during new developments.[114] Due to this, remains were often stored in local police stations until they were collected or deposited in Australian museums.[115] Steve Hemming highlights, in relation to the storage and collection of Indigenous human remains, some of his experiences while working at the South Australian Museum:

> When I started working at the South Australian Museum in the early 1980s, there was a black, wooden, coffin-like box...I was told that it contained the bodies of Aboriginal people 'collected' by the Museum in an attempt to preserve 'specimens' of the so-called 'extinct full-blooded Aborigines' of south-eastern Australia...[116]

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[111] Parker, K., 'Stolen Remains, Politics and Hope', *Koori Mail*, Issue 465, 2 December 2009, p. 42.
[112] Turnbull, P., 'The Vermillion Accord and the Significance of the History of the Scientific Procurement and Use of Indigenous Australian Bodily Remains', (2010b), in *The Long Way Home: The Meaning and Values of Repatriation*, Turnbull, P., Pickering, M., (eds.), Berghahn Books: New York & Oxford, 2010, p. 118.
[113] Ibid.
[114] Hemming, S., Wilson, C., 'The First 'Stolen Generations': Repatriation and Reburial in Ngarrindjeri Ruwe (Country)', in Turnbull, P., Pickering, M., (2010), op. cit., p. 187.
[115] Ibid.
[116] Ibid.

Cressida Fforde remarks on the contents of the 'box', highlighting that there were two adults, a young child and a stillborn baby, all encased in fluid so as to ensure preservation.[117] Fforde reinforces the disgust and anger publicly expressed by Ngarrindjeri leaders Trevorrow and Uncle Matt Rigney, due to the horrific treatment of their community in the practice of 'collecting' body parts for research, and the various difficulties which are present during the repatriation process and negotiations within their community.[118] In addition, Tom Trevorrow notes that as a young man, he himself saw young 'whitefellas' driving around with their dashboards adorned with Aboriginal skulls and animal bones.[119] For 'white' Australians, Aboriginal remains were displayed within their homes like trophies for visitors to admire and converse over.[120] These examples of cultural disrespect towards the treatment of both living and deceased Indigenous Australians, as well as the various political inequalities and the invasion and removal of their land, have acted as a driving force in propelling Australian Indigenous demand for the reclamation of their family members and heritage.

Many of the Australian Indigenous human remains previously used for scientific analysis were bequeathed or donated to museums or private collectors for display. Having human skeletal remains along with cultural material on public display allowed audiences from Western society to gain access to and insight into the 'primitive' life of Aboriginals and their unique culture. Sociologist and cultural commentator Tiffany Jenkins suggests that the majority of research conducted on human remains within exhibitions during the early twentieth century focused on the display of 'disempowered cultural groups' as a means of demonstrating their dominance.[121] Jenkins reiterates the justification of the applied dominance of Western society portrayed by museums, remarking on various theorists, such as Lindfors (1985), Bennett (1995) and Butchart (1998), who suggested that, due to

[117] Ibid.
[118] Ibid.
[119] Parker, K., 'Stolen Remains, Politics and Hope', *Koori Mail*, Issue 465, 2 December 2009, p. 42.
[120] Ibid.
[121] Jenkins, T., op. cit., 2010, p. 118.

the lack of political power held by these cultural groups, the exploitation of their bodies within exhibitions was initiated.[122]

Shifts in public opinion towards the treatment and display of Indigenous skeletal remains

From the late nineteenth century to the late twentieth century, an active shift in post-colonial ideologies towards the representation of and relationship between 'Westerners' and Indigenous source communities occurred, altering the way in which museums interpreted and displayed objects and cultures.[123] Many of the Indigenous human remains held within museums were continuously acquired for their anthropological and cultural significance, nature and interpretation, such as decoration, mounting and deformity.[124] With the improvement of dating technology, scientists and archaeologists were able to better comprehend the temporal, spatial and cultural attributes of the remains, allowing for the expansion and development of their previously determined racial theories. During the 1970s, a considerable amount of quantitative analysis and investigation were conducted on skeletal collections within UK museums; however, these actions were highly contested by Indigenous activists.[125] Jenkins remarks on three social influences which she believes to surround the problem of human remains: the scientific view of the body, the body as a site of identity, and the location of the body as a site of power and struggle.[126] These interrelated influences, as Jenkins suggests, work together to impact on how the display of and research into human remains are considered.[127] Nevertheless, the museum context in which human remains are displayed has become problematic, as it is no longer considered legitimate.[128]

[122] Ibid.
[123] Pickering, M., 'Policy and Research Issues Affecting Human Remains', in Lohman, J., Goodnow, K., (2006), op. cit., p. 43.
[124] Ibid.
[125] Ibid., p. 44.
[126] Jenkins, T., op. cit., 2011, p. 119.
[127] Ibid.
[128] Ibid.

The development of post-colonial theories arose during the late twentieth century, which pursued the analysis and reflection of the cultural legacies of colonialism and imperialism. These theories included the ethical consequences of controlling and invading a country through the establishment of settlement, for the exploitation of economic and natural resources, as well as the exploitation of the Indigenous people themselves.[129] Since the 1980s, the popularity of representing and embracing all pre-colonial communities within museums has been triggered, so much so that the incorporation of interactive pre- and post-colonial communities has developed into an integral reflective analysis of modern society.[130] Clifford highlights museums' desire to build and develop means of interaction and community empowerment between exhibited Indigenous cultures, institutions, and public interest, which he referred to as 'contact zones'.[131]

In the late 1990s, museums, specifically those within Polynesia, such as the Museum of New Zealand Te Papa Tongarewa (Te Papa Museum), aimed to explore and represent a rich mix of post-colonial alternatives within their displays, and sought to construct a bicultural partnership and implement governmental policies to reflect their mixed cultural practices. Many institutions, specifically those within Oceania, have sought to speak to, and liaise with, Indigenous people, allowing their voices and views to be heard and represented within public spaces. Though these theories are evident in the changes and progress of cultural acceptance and representation within cultural institutions and governmental legislation, for many Indigenous people, previous injustices inflicted upon them and their people remain a constant impact on their lives. Issues pertaining to Native Title rights,[132] overcrowding, and insufficient governmental housing and support for rural community members, in addition to issues of poverty, health and welfare, are constantly endured by many Australian Indigenous people.[133]

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[129] MacLeod, R., 'Postcolonialism and Museum Knowledge: Revisiting the Museums of the Pacific', *Pacific Science*, Vol. 52, No. 4, 1998, pp. 308–309.
[130] Pratt, M. L., (1991); Boast, R., (2011).
[131] Pratt, M. L., (1991); Clifford, J., (1997); Boast, R., (2011).
[132] Sutton, P., *Native Title in Australia: An Ethnographic Perspective*, Cambridge University Press: UK & New York, 2004.
[133] Bailie, R. S., Wayte, K. J., (2006); Egan, T., (2008); Voogt, E., (2011).

With the outcry surrounding the inequalities and racial discrimination against Indigenous communities on a global scale, Australian Indigenous communities have sought to reclaim their identity and culture through regaining control of their heritage. In the 1980s, certain Australian Indigenous people strove to regain their cultural material and ancestors by approaching museums and university collections with claims demanding the return of all of their cultural property, previously acquired without consent. Fforde notes that the campaign for Aboriginal control of their ancestors' remains can be viewed as part of the wider cultural discourse surrounding the value of their traditional heritage and a rejection of past scientific control.[134] In addition, she highlights that many arguments regarding the repatriation of ancestral remains have surrounded negative contributions made by past scientific research.[135] This created an inferior identity for Australian Aboriginal people, thus enforcing their lower status which played a large part in the justification for their oppression by settlers and the Australian government.[136]

Nevertheless, Fforde references anthropologist Steve Webb, who emphasises that, despite the anger and concern which he encountered, he came to the understanding that Australian Aboriginals did, in fact, acknowledge the importance and significance of scientific and archaeological research, which had been uncovered through the use of the remains, and were willing to discuss compromises regarding the future of the skeletal remains within institutional collections.[137] Since the 1970s, many Australian Indigenous people and communities throughout the country have actively sought to gain control over cultural material and ancestral remains held within institutions, asserting cooperation and involvement in any potential research into ancestral remains or secret/sacred cultural material which may take place in the future.[138] Webb

[134] Fforde, C., 'Collection, Repatriation and Identity', in *Museums and their Communities*, Watson, S., (ed.), Routledge: London & New York, 2007, p. 36.
[135] Ibid.
[136] Ibid., p. 35.
[137] Ibid.
[138] Ibid.

concludes his evaluation by reinforcing that the issue of repatriation and reburial could only be achieved through the continuous discussion between scientists, institutions and Australian Aboriginals.[139] The shift in public opinion and challenge towards institutional treatment of Indigenous people, and their recognition and autonomy over their cultural property, served to influence the development of ethical practices within museums. Edson emphasises that the museum is ever changing, influenced by the sociocultural, economic and political conditions in which it exists.[140] This ultimately suggests that the heritage of all of humanity are susceptible to the changes and ideologies of its changing environment, and hence, objects full under the authority to 'act and react – the power to destroy, the power to ignore or the power to preserve'.[141] As a result it is the responsibility of cultural institutions to protect heritage and present it in a positive and respectful manner, activating museums in the service of society and promoting ethical standards of inclusivity, respect and correctness.[142] Marstine argues that while museums themselves may not have conscience, they do however have 'moral agency' which ultimately serves to influence their key values and responsibility to the communities which they serve and represent through cultural discourse.[143] These standards of behaviours exhibited within museums ultimately work to translate through to the public domain, serving as ethical institutions and educators. While the amendments of ethical policies and practices within institutions and government legislation have worked to acknowledge and represent the cultural misrepresentation and inequality of Indigenous communities on a global scale, with recognition to the possession of their cultural heritage and sovereignty made, Indigenous discussion and claims for repatriation and restitution have brought ethical standards to the fore.

The International Council of Museums *Code of Ethics for Museums* have present a base standard for pursuing museum values and visions, in addition to setting out

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[139] Ibid.
[140] Edson, G., *Museum Ethics in Practice*, Routledge: New York, 2017, p. 6.
[141] Ibid., p. 7.
[142] Ibid.
[143] Marstine, J., 'The contingent of the new museum ethics', in *The Routledge Companion to Museum Ethics: Redefining Ethics for the Twenty-First-Century Museum*, Marstine, J., (ed.), Routledge: London & New York, 2011, p. 5.

clear acknowledgment into their responsibilities for preserving cultural and natural heritage, both tangible and intangible.[144] ICOM provides a unifying framework for the protection of standards within museums on a global scale, which has been adopted or adapted to many institutional and governmental policies and standards. While ICOM *Code of Ethics* are internationally recognised and continuously promote the strengthening of links between groups, communities and nations, they too are subject to change based of socioeconomic, political and economic changes within society, assuring they remain relevant.

The practice of repatriation in the UK and Australia: from the late twentieth century to the twenty-first century

Australian Indigenous efforts to rescue their ancestors from the confines of institutional collections gained momentum through the 1980s. During this period, UK museums were receiving numerous claims and requests for repatriation from Australian Indigenous communities, with representatives and community Elders from the Tasmanian Aboriginal Centre (TAC) and the Foundation for Aboriginal and Islander Research Action (FAIRA) drawing media attention to the issue.[145] This attention resulted in the return of various remains and cultural objects,[146] one of which was the casted bust of Truganini.[147] Paul Turnbull suggests that attempts towards the return of Australian Indigenous ancestral remains predate the 1980s, with various efforts towards repatriation dating from the late nineteenth century.[148] Australian Indigenous efforts towards the repatriation of ancestral remains were validated during the late 1930s, as the British Crown formally

[144] Hinz, H. M., 'ICOM Turns 70: Ethics and the value creation role of museums', in Murphy, B. L., (ed.), *Museums, Ethics and Cultural Heritage*, Routledge: New York, 2016, p. 5.
[145] Fforde, C., Ormond-Parker, L., 'Repatriation Developments in the UK', *Indigenous Law Bulletin*, Vol. 5, No. 6., 2001.
[146] Ibid.
[147] Davis, C., 'Aborigines demand that British Museum returns Truganini bust', *The Guardian*, 16 September 2009, <https://www.theguardian.com/world/2009/sep/16/tasmania-aborigines-ancestors-repatriation> [accessed 01/12/16].
[148] Turnbull, P., 'The Vermillion Accord and the Significance of the History of the Scientific Procurement and Use of Indigenous Australian Bodily Remains', (2010b), in Turnbull, P., Pickering, M., (2010), p. 118.

recognised Aboriginal traditional rights to land given over to burial and remembrance of the dead, in accordance with time-honoured customs.[149]

Turnbull argues that with the growing momentum of Australian Indigenous opposition for the continued display and examination of their ancestors throughout the 1980s, many researchers within the fields of archaeology, anatomy and physical anthropology were astonished and perplexed by their strong demands for repatriation, specifically as these remains had lain within the confines of institutional collections for centuries.[150] Some researchers therefore believed Indigenous requests for the repatriation of their ancestral remains and soft tissue to be nothing more than, what Turnbull refers to as a 'political stunt' initiated by rural Aboriginal 'radicals' seeking to give a new emotive force to longstanding political demands already proposed, such as land rights and social inequalities.[151] Turnbull remarks that within the Australian press, conservative commentators dismissed and criticised leading campaigners Michael Mansell, Professor Henry Atkinson and Bob Weatherall as men with little to no connection to the traditional way of life and culture of the people whose remains they sought to claim.[152] While Mansell is of both European and Aboriginal descent, as a renowned Tasmanian lawyer he is a firm activist for Australian Indigenous rights. Mansell has worked tirelessly for years to defend the rights of Indigenous Australians, and concerns surrounding native Aboriginal land rights and sovereignty.[153] Atkinson, a Yorta Yorta Elder and retired Monash professor, and Weatherall, a Gumulray Elder working for many years at the FAIRA, have both respectively been firm educators, activists and continuous representatives for Australian Indigenous rights within Australia and on a global scale.[154] Furthermore, Atkinson and Weatherall have both participated in the process of

[149] Ibid.
[150] Ibid., p. 117.
[151] Ibid.
[152] Ibid.
[153] 'Michael Mansell Abstract', *Murdoch University*, 11 May 2011, <http://www.webcitation.org/5ybkIyWM9?url=http://www.treaty.murdoch.edu.au/papers/michael_mansell.htm> [accessed 20/04/17].
[154] Atkinson, H., (2010, pp. 15–19); Weatherall, B., *LinkedIn*, <http://www.linkedin.com/pub/bob-weatherall/54/1ba/67b> [accessed 15/01/14].

repatriating Australian Indigenous ancestral remains from various national and international institutions. This expressed criticism from conservative Australian commentators towards the press merely served to reinforce the cultural ignorance of various non-Indigenous Australians.[155]

The adoption of the *Vermillion Accord on Human Remains* by the World Archaeological Congress in 1989, according to Turnbull, sought to recognise the implicit demands for the relinquishment and return of Indigenous ancestral remains, which instigated the survival and 'continuous vitality' of Indigenous cultures and systems of customary law.[156] The introduction of the *Accord* was targeted towards establishing discussion between research scientists and Indigenous communities in order to help establish and develop communication and solve questions of mutual interest.[157] Though scientific research into and analysis of Indigenous remains continued, the way in which science was used and the questions were investigated changed, centring on specific questions proposed and formulated through negotiations with Indigenous people.[158] Some of the key questions that many Australian Indigenous Elders, repatriation activists, and community spokespersons have asked in the past include: 'Why were the dead taken and what was done with them within museums and medical schools?'[159] While many scientific and medical collections of human remains, such as the Hunterian Museum in London and the Muller Museum in Philadelphia, played and, to a degree, continue to play an influential role in the understanding of anatomy, diseases, diet, and racial distinctions,[160] the incorporation of Australian Indigenous human remains within these collections reinforces institutions' dated

[155] 'Yarnin' Time with Uncle Bob Weatherall', *State Library Queensland*, 14 November 2012, <http://www.slq.qld.gov.au/whats-on/calevents/general/exhibitions/kuril_dhagun/state-of-emergency/weatherall> [accessed 08/08/17].
[156] Turnbull, P., 'The Vermillion Accord and the Significance of the History of the Scientific Procurement and Use of Indigenous Australian Bodily Remains', (2010b), in Turnbull, P., Pickering, M., (2010), op. cit., p. 118.
[157] Turnbull, P., (2010b); Fforde, C., (2014).
[158] Turnbull, P., 'The Vermillion Accord and the Significance of the History of the Scientific Procurement and Use of Indigenous Australian Bodily Remains', (2010b), in Turnbull, P., Pickering, M., (2010), op. cit., p. 118.
[159] Ibid., p. 119.
[160] Alberti, S. J. M. M., et al., (2009); Jenkins, T., (2010); Redman, S. J., (2016).

methods and attests to their lack of cultural understanding and ethical development.

Michael Pickering, manager of the Aboriginal and Torres Strait Islander Program at the National Museum of Australia (NMA), notes that Indigenous human remains in museum collections are often treated as unique and exotic 'objects' in their own right, with their significance and interpretation only established when they enter the precincts of the collecting institution.[161] Therefore, as previously discussed, if Indigenous human remains are translated into museum objects, the humanistic attributes of the remains, such as the history of the lives and cultures of the individuals, and the processes behind the collection and subsequent management of the remains, can be ignored.[162] Their stories are forgotten and consequently lost. Because of this limited view, many institutions are unwilling to consider repatriation to be anything other than a destructive practice.[163] That being said, Kopytoff and Alberti remark on the 'life' and attributes that an object possesses when examining its significance and importance to the collector or viewer. More distinctly, Alberti remarks on the shift in the original 'context' of an object once it has been collected and transferred to a museum setting, and alternatively interpreted in a different cultural context.[164] Moreover, Alberti emphasises that natural history objects brought into the museum setting were prone to an unfortunate shift in the distinction between 'natural' and 'artificial', becoming objects of cultural material through the process of collection, storage and display.[165]

Flessas notes the method of 'conceptualising' or 'categorising' human remains, including how to consider or validate their subsequent appropriation by scientific

[161] Orr, E. R., Bienkowski, P., (2006, p. 7); Pickering, M., (2008, p. 1); Alberti, S. J. M. M., et al., (2009, p. 137).
[162] Ibid.
[163] Ibid.
[164] Kopytoff, I., (1986, pp. 64–91); Barringer, T., Flynn, T., (1998); Alberti, S. J. M. M., (2005, pp. 559–571).
[165] Alberti, S. J. M. M., 'Objects and the Museum', *Focus Museums and the History of Science*, Vol. 96, No. 4, 2005, p. 563.

or educational institutions and genealogical or cultural claimants.[166] Accordingly, this raised issues of contested histories, colonialism, and the likelihood of being able to establish ongoing cultural connections across centuries and continents.[167] Most importantly, the debate between the pursuit of 'scientific knowledge' and 'Indigenous cultural obligations' questions the role and function of these human remains within museums.[168] Additionally, Flessas remarks on the potential clash between the 'Enlightenment' values adopted by the various museums which prioritised scientific and scholarly study, public access, and the values that turn on identity, personhood and community.[169] This includes the consequences of the ultimate removal of bones from museum collections, or the limitation in their appearance within the public domain.[170]

Some of the more prominent opposition towards the repatriation of Indigenous skeletal remains was initiated by scientists, museum curators, and physical anthropologists who feared the loss of prominent examples of Australian Indigenous 'man'. From the mid-1980s to 1990s, influential and acclaimed Australian archaeologist John Mulvaney publicly expressed his support against repatriation, stressing that both he and some of his colleagues within Australia 'could not condone the loss of remains to researchers through their reburial', on the notion that their return to 'Country' would deny all of humanity potentially significant insights into and new discoveries of their shared past.[171]

Mulvaney persisted in his resistance, arguing that 'past repressive colonialism does not mean that the present academic generation must pay the price by never opposing strident claims and demands by radical Aboriginal leaders'.[172] This

[166] Flessas, T., 'The Repatriation Debate and the Discourse of the Commons', Law Society Economy Working Papers, (unpublished thesis), *London School of Economics and Political Science*, Law Department, 2007, p. 2.
[167] Ibid.
[168] 'Human Remains: Objects to Study or Ancestors to Bury?', (2 May 2003), [Transcript]; Seidemann, R. M., (2004); Flessas, T., (2007).
[169] Flessas, T., op. cit., p. 2.
[170] Ibid.
[171] Turnbull, P., 'Introduction', (2010a), in *The Long Way Home: The Meaning and Values of Repatriation*, Turnbull, P., Pickering, M., (eds.), Berghahn Books: New York & Oxford, 2010, p. 4.
[172] Neal, M., Kleinert, S., Bancroft, R., (eds.), *The Oxford Companion to Aboriginal Art and Culture*, Oxford University Press: USA, 2000, p. 430.

apparent opposition towards the claims and wishes of Australian Indigenous communities demonstrates a lack of cultural recognition and ethical consideration. While scientific insight and testing in respect of human remains have their own merits in providing insight into ancient skeletons, continued prominence of Enlightenment theories and empirical views towards Indigenous communities merely enforces cultural prejudices, and in the present day is viewed as ethically inconsiderate when community consultation or approval is not acquired.[173] One of the main questions in the repatriation debate surrounds the legitimisation of authority over the remains and their interpretation.[174] Don Brothwell, a British biological anthropologist and zoo-archaeologist from the Institute of Archaeology, University College of London, wrote to *The Times* (29 August 1990), expressing his position on repatriation:

> While we all wish to honour the thoughts the Aborigines have for their ancestors, it is important to remember that ancient remains, from whatever world site, have international scientific importance, and this should take precedent over any local issues. Secondly ancestral claims are more than likely to be based on ignorance of history or pre-history, a state of affairs which archaeological investigation attempts to rectify.[175]

While Brothwell acknowledged the need to 'honour' the intentions of Australian Indigenous people and their cultural responsibility to their ancestors, his motivations for the maintained custody of ancient remains for scientific purposes, and his rejection of ancestral claims based on Aboriginal 'ignorance of history and pre-history', is perhaps viewed as biased based on his area of expertise and profession. Brothwell's statement additionally serves to glorify science over cultural beliefs in the pursuit of educational information and data relating to Indigenous people, attesting to Enlightenment values. Although curatorial policies and research ethics in the treatment and care of Indigenous human remains and cultural property have changed since the 1990s, Brothwell's comments serve as a reminder of previous inequalities and prejudice ideologies towards Indigenous

[173] Turnbull, P., 'Introduction', (2010a), in Turnbull, P., Pickering, M., (2010), op. cit., p. 4.
[174] Fforde, C., 'Collection, Repatriation and Identity', in Watson, S., (2007), op. cit., p. 246.
[175] Ibid.

communities, including the lack of cultural consideration in the ethical treatment and use of Indigenous human remains and cultural material by conservative Western specialists and institutions.

Turnbull notes that some archaeological and museum circles responded with the equally false and misleading claims that repatriation activists were promoting a new and dangerous species of ethical relativism, 'Black Creationism', with little to no connection with traditional Aboriginal culture.[176] This insensitivity towards Australian Indigenous communities, as well as the remains themselves, is suggested by Morphy to be due to their inability to adapt to the radical changes over the years which have taken place within the discipline of biological anthropology.[177] Nevertheless, because of influential input from prominent figures associated with organisations such as the TAC and the Brisbane-based FAIRA, vast support and public sympathy, within both Australia and the UK, were demonstrated. Due to the public outcry and continuous Indigenous campaigning, a number of museum curators started to question the function and future purpose of Indigenous human remains within their collections, reflecting on the greater impact that human remains would have for their institution, in contrast to the needs and benefits for Indigenous community members.

Mulvaney, however, reiterated his disapproval towards the promotion and suggested approval of repatriating human remains, arguing (in 1991) that anatomists, archaeologists and physical anthropologists alike did not receive enough peer group encouragement and support when formulating their argument against the repatriation of skeletal material, which he had 'expected'.[178] Contradicting this view, various commentaries from members of noted Aboriginal community members, such as Mandawuy Yunupingu from the Northern Land Council, have emphasised their position and cultural concerns to non-Indigenous Western societies, emphasising:

[176] Turnbull, P., 'Introduction', (2010a), in Turnbull, P., Pickering, M., (2010), op. cit., p. 3.
[177] Ibid.
[178] Mulvaney, D. J., (1991); Morphy, H., (2010, p. 147).

> We have a living history that we practice, which provides us with information, just like your archaeological investigations. Our history is alive to us. We do not need archaeological investigation to tell us where we came from or from who we are descended. The remains of Aboriginal people must be returned to their rightful people and Country. It's only just to do so.[179]

Farrington states that 'the continuous exploitation and dispossession of the Aboriginals' ancestral remains serves as a mnemonic device, strengthening the memory of the descendants and of those who are stored on dark shelves in the basement of British museums'.[180] Continuing, she suggests that, as a result of the act of dispossession, the unity of Australian Aboriginal communities is strengthened through their collective opposition and determination to reclaim their lost ancestral remains.[181] This is noted through the continuous activism and growing level of enthusiasm within the Australian Indigenous population and fiercely encouraged by various activists.[182] Bob Weatherall continuously reinforces his dismay towards the invasion and dispossession of his culture and 'Country', adding his expressed anger towards the unethical and immoral removal and disruption of his and Aboriginal people's ancestral remains, in addition to the disrespect previously expressed by 'white' Australians throughout history.[183] Campaigning for the return of Aboriginal ancestral remains from opposing cultural institutions and scientific researchers, Weatherall proclaimed:

> They are in possession of stolen property … It's important for the spirits of our people to pass into the spirit world, and they can't do that here in this land [Britain]. (Australian Associated Press, 1 August 2003)[184]

Rodney Dillon, a former commissioner of the Australian and Torres Strait Islander Commission and an avid campaigner for Australian Indigenous rights, gave his views on the repatriation debate, stating:

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[179] Fforde, C., 'Collection, Repatriation and Identity', in Watson, S., (2007), op. cit., pp. 246–247.
[180] Farrington, J., op. cit., p. 2.
[181] Ibid.
[182] Ibid.
[183] 'A night by the fire with Bob Weatherall', *State Library Queensland*, 21 October 2014, Remains and repatriation talk series, [Video Footage], <http://www.slq.qld.gov.au/audio-video/webcasts/recent-webcasts/bob-weatherall> [accessed 08/08/17].
[184] Farrington, J., op. cit., p. 6.

> These are our people's remains, not just human bones. These scientists are not doing us a favour by giving them back to our people. These remains belong to our people. They were stolen. It is our right to have them returned. It is their right to be returned … I do not expect these scientists to understand our culture, but I do expect them to respect it. (ATSIC Media Release, 16 May 2003)[185]

Australian Indigenous communities have called into question the 'ownership' of their ancestral remains within cultural institutions, also contesting UK and Australian museum practices and human remains policies, inquiring into their dubious lawful 'ownership' of the various human remains within their collections. The implementation and development of repatriation policies and human remains legislation and agencies within UK and Australian museums will be further discussed in Chapter Two, with their efficacy examined and their application to the repatriation of unprovenanced Australian Indigenous ancestral remains discussed.

Dillon further remarks that the repatriation debate should not surround the 'ownership' of the remains; more importantly, concern should be with the rights of the remains to ensure that they go back home to their community and are returned to the place wherein they were initially acquired. As human beings, Dillon argues that deceased remains have rights which should be respected and honoured by all.[186] Tristram Besterman, former Director of Manchester Museum and a freelance adviser in the museum, cultural and higher education sector, showed his support for the rights of Australian Indigenous people both living and dead, asserting:

> The return of the remains … is an act that recognises our common humanity … by returning these remains now, we hope to contribute to ending the sense of outrage and dispossession felt by Australian Aborigines today, and trust that we can begin to build a more rewarding relationship based on mutual understanding and respect. (The Voice/Black Britain, 29 July 2003)[187]

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[185] Ibid., p. 7.
[186] Ibid.
[187] Ibid.

Manchester Museum demonstrated its support for the repatriation of Australian Indigenous human remains, and its respect towards claims, by being one of the first museums in Britain to approach Indigenous communities with Aboriginal remains to return.[188] Other museums have not been so supportive towards repatriation, with many institutions in both Australia and Britain stating that the return of remains would hinder the institution's collections in the display of significant ethnographical material and spark further claims from other communities for the return and restitution of their cultural property previously removed.

Professor Norman MacLeod from the National History Museum expressed his concerns over the concept of repatriation and the various repercussions for both the remains and institutions, stating:

> I do have sympathy for the position of the Aboriginal peoples … But, even with respect to their claims, there are practical problems in the sense of how far back does this extend? Are we to return fossils …? If we were to repatriate them to the wrong groups or the wrong individuals, then we would open ourselves up to legal action. (The Australian, 30 July 2003)[189]

Professor Robert Foley from the University of Cambridge expressed his objection towards the restitution and repatriation of Australian Indigenous cultural material and human remains, highlighting his various concerns:

> I do understand [the argument for the return of remains] and can see the arguments to do with your religion, but there are also benefits in allowing this material to remain, that by keeping them preserved … it's contributing to a great emphasis on Australian Aboriginal culture within human history, and I think that's an important contribution that again maybe their children and grandchildren will be grateful that that material is preserved. (The World Today, ABC Radio, 29 July 2003)[190]

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[188] Besterman, T., 'Returning the ancestors', *Manchester Museum – The University of Manchester*, 2004, pp. 1–18.
[189] Farrington, J., op. cit., p. 7.
[190] Ibid., p. 2.

Foley's above statement reinforced his belief in the contribution that science has provided for both Western society and Aboriginal communities, suggesting that many of the Australian Indigenous descendants would prefer to see their ancestors' remains in museums as part of a global heritage and as a source of historical and scientific ideas and discoveries.[191] Foley's sentiments reinforce his desire and that of many other archaeologists and museum professionals; however, these sentiments do not appear to be supported by the Australian Indigenous public, as the number of responses from many Australian Indigenous people opposing such opinions is extensive.[192] Major Sumner, an Elder from the Ngarrindjeri community and a prominent and passionate figure in the repatriation debate, reiterated the crucial importance of returning ancestral remains, emphasising Australian Indigenous cultural beliefs surrounding human remains and the deceased's spirit:

> People need to understand the value of honouring their ancestors... Our belief is that when our people's remains are not with their people and in our Country, then their spirit is wandering. Unless they go back home, the spirit never rests. These are people that we know are uneasy. There are a lot of unhealthy spirits in our community; all sorts of negative energies around our people.[193]

Foley, though understanding and accepting of the cultural aspects surrounding the remains and subsequent claims made, still maintains his support for the inclusion of human remains within institutions, both cultural and educational, due to the influential and integral information that they have already provided for humanity, the future scientific, medical and cultural benefits that may be discovered, as well as the maintained integrity, safety, care and preservation of the remains within a highly equipped institutional storage facility. Foley's statement on *ABC Radio* reinforced this position:

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[191] Besterman, T., Foley, R., 'Should human parts in museums be returned to their place of origin?', *BBC History Magazine*, July 2003, p. 51.
[192] Totaro, P., 'Bring home the dead so their spirits can rest', *The Age National*, 13 May 2009, <http://www.theage.com.au/national/bringing-home-the-dead-so-their-spirits-can-rest-20090512-b1w9.html> [accessed 15/01/14].
[193] Ibid.

> The importance lies in the fact that they are basically the record of our species' history [collections of remains]. If you are interested in humans … these collections are the information devices, they're like the books in which the history of our species is written. (The World Today, ABC Radio, 30 July 2003)[194]

Foley's argument surrounding the scientific significance of the remains is irrefutable, and his concerns over the removal of the remains from collections are valid; however, his reasoning neglects to take into consideration the effect that repatriation can have on living descendants and their communities. In addition, Foley neglects to recognise the immense responsibility that Indigenous Australians bear in the safeguarding of their ancestors' spirits and in ensuring that they safely reach the spirit world. This perception is reflected in Weatherall's comments:

> If we don't fulfil customary obligations, that regret will stay with us forever and we shouldn't expect to be welcomed by the ancestors when it's our turn to go.[195]

According to Atkinson, Indigenous people, both living and deceased, have a profound obligation, through kinship systems, to ensure that their ancestors are returned to their 'Country' and community of origin, and not just thrown into the ground anywhere.[196] Atkinson reinforces his argument, suggesting:

> Non-Indigenous people do not have the spiritual connection with the remains and, therefore, there is a greater chance that they may act in an excessively bureaucratic or insensitive way, resulting in remains simply shipped in a box and delivered to Indigenous people with the expectation that they will inter them in any old fashion.[197]

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[194] Farrington, J., op. cit., p. 7.
[195] Korff, J., 'Aboriginal remains repatriation: Remains repatriation timeline', *Creative Spirits*, April 2013, <http://www.creativespirits.info/aboriginalculture/people/aboriginal-remains-repatriation> [accessed 16/01/14].
[196] Atkinson, H., 'The Meanings and Values of Repatriation', in Turnbull, P., Pickering, M., (2010), op. cit., p. 19.
[197] Ibid.

Steve Webb, an anthropologist and professor of Australian studies at Bond University, Queensland, questions the value of scientific research into Indigenous human remains on an international scale, asserting that 'it is time that the whole anthropological community outside of Australia recognises that the scientific value of these collections is zero'.[198] Continuous public debate surrounding the 'scientific benefit' and 'cultural moralities' of repatriation, including the use and display of Australian Indigenous human remains, is highly entwined within museum and university collection policy structures both within Australia and internationally. These collection policies, and regulatory bodies, make it decidedly difficult for Indigenous claims to be met when scientific significance can be established.

For Indigenous communities, the return of their cultural property, and ancestors, represents the return of their power, authority, ownership and autonomy over their heritage and practices within modern Australia.[199] Lambert-Pennington acknowledges that it is through the process of repatriation that the various roles which both individual and organisational representative bodies, past and present, played in supporting Indigenous claims towards the return of Australian ancestral remains, and their engagements between the Australian state and Indigenous people, are emphasised.[200] However, due to the scale of political instability and racial discrimination present within Australia's history, the intercultural relationship between Indigenous and non-Indigenous Australians has forced the government to act in various ways, demonstrating their desire for forgiveness and reconciliation over past 'wrongdoings'. This is demonstrated through the government's initiation of national and international policies, organisations and promises so as to better provide and support the Australian Indigenous people and their culture, which will be further discussed in the following chapter.

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[198] Korff, J., 'Aboriginal remains repatriation: Remains repatriation timeline', *Creative Spirits*, April 2013, <http://www.creativespirits.info/aboriginalculture/people/aboriginal-remains-repatriation> [accessed 16/01/14].

[199] Hemming, S., Wilson, C., 'The First 'Stolen Generations': Repatriation and Reburial in Ngarrindjeri Ruwe (Country)', in Turnbull, P., Pickering, M., (2010), op. cit., p. 189.

[200] Lambert-Pennington, A. K., 'What Remains? Reconciling Repatriation, Aboriginal Culture, Representation and the Past', *Oceania*, Vol. 77, No. 3, 2007, p. 313.

Through the support and adoption of repatriation, the Australian government is attempting to 'close the gap'[201] between the two cultures and amend the injustices of the past. While the government is showing and acknowledging the need for reconciliation, and attempting to 'right the wrongs of the past' through providing amenities that they believe Australian Aboriginal and Torres Strait Islander peoples require, Indigenous Australians warn that repatriation is merely a step in the right direction, with further change and support needed.[202] Author Sarah Maddison argues that a significant barrier to understanding the complexities of Aboriginal culture rests in the widespread failure to recognise the diversity of Aboriginal people, and the aspirations and demands of their culture.[203] Though Maddison is specifically focusing on the relationship between Indigenous and non-Indigenous Australians, her comments are relevant to all Western societies in their understanding of Indigenous communities on a global scale. Professor Muriel Bamblett, CEO of the Victorian Aboriginal Child Care Agency (VACCA), stated in 2007:

> If we begin with listening, we can relight the fire of reconciliation . . . Then the road to real reconciliation with its signposts of 'sorry' and 'treaty' can be travelled by all of us and the re-imagining of a new nation that respects and treasures the sovereignty and self-determination of its first peoples with justice and honour can begin.[204]

Though, as we have seen, there are arguments opposing the repatriation of any Australian Indigenous human remains from museums and scientific collections, many curators, museum directors, and policy and government officials are starting to recognise, after continuous claims and appeals for many years, that within Australian Indigenous culture these human remains are the ancestors of living Australian Indigenous communities, and, though having been deceased for

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[201] 'Bringing Aboriginal and Torres Strait Islander ancestral remains back home', (2013); Australian Government, 'Closing the Gap: Prime Minister's Report 2017', (2017).
[202] Back, A., 'Mammoth task ahead to bring Aboriginal remains back on Country', *ABC Broken Hill*, 6 January 2015, <http://www.abc.net.au/local/photos/2015/01/06/4158157.htm> [accessed 11/11/16].
[203] Maddison, S., *Black Politics: Inside the Complexities of Aboriginal Political Culture*, Allen & Unwin: Australia, 2009, p. 227.
[204] Bamblett, M., 'Aboriginal people need the fires of reconciliation to be relit', *The Age*, 11 December 2007, <http://www.theage.com.au/news/opinion/the-fires-of-reconciliation-need-to-be-relit/2007/12/10/1197135371663.html?page=fullpage> [accessed 17/01/14].

hundreds or, in the case of Mungo Man, thousands of years, are still bonded through community ties and kinship.[205] These ancestral spirits are an integral part of Australian Indigenous heritage, as their memory continues to be passed down through the generations to the present day.[206] When dealing with human remains originating from Indigenous cultures with living descendants, such as the Australian Aborigines, Torres Strait Islanders, Maori, or Native Americans, national and international museums are becoming aware that they alone can no longer ethically make decisions for the remains in respect of their care, interpretation, function and retention within institutions.[207] Furthermore, institutions are becoming increasingly mindful that by cooperating and liaising with Indigenous people, this will help in establishing awareness of Indigenous communities and their cultures within the wider general public.[208] Within the policy statement from the 2010 *Manchester Museum Human Remains Policy,* it is highlighted that the need for a broader decision must be made with regard to stored human remains with no genealogical and cultural descendants, as the care of the remains is a collective responsibility for all of the people within the modern area, from the originating region to their stored location.[209]

In recognising the increase of proposed claims made by Indigenous Australians towards institutions within Britain, former British Prime Minister Tony Blair, in conjunction with former Australian Prime Minister John Howard, agreed, in 2000, that efforts to enforce the repatriation of any Australian Indigenous human remains from British cultural institutions and educational collections, on a voluntary and unconditional basis, were to be made.[210] Following the meeting, the two Prime Ministers issued a joint statement declaring:

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[205] 'First Footprints: Series 1 Episode 1 Super Nomads: 50,000 to 30,000 Years Ago', Dean, B., Butler, M., *ABC 1*, 14 July 2013, Australian Broadcasting Corporation.
[206] Ibid.
[207] Ibid.
[208] Ibid.
[209] The University of Manchester, 'Policy Document for the Strategic Development of The Manchester Museum: Policy on Human Remains', *Manchester Museum*, June 2010, p. 2.
[210] 'Media Releases: Joint Statement with Tony Blair on Aboriginal Remains', *Prime Minister of Australia John Howard News Room*, 4 July 2000, <http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/FC026/upload_binary/fc0261.pdf;fileType%3Dapplication%2Fpdf> [accessed 15/01/14].

> The Australian and British governments agree to increase efforts to repatriate human remains to Australian Indigenous communities. In doing this, the governments recognise the special connection that Indigenous people have with ancestral remains, particularly where there are living descendants. We agree that the way ahead in this area is a co-operative approach between our governments. Our governments recognise that there is a range of significant issues to be addressed in order to facilitate the repatriation of Indigenous human remains. Addressing these issues requires a coordinated long-term approach by governments involving Indigenous communities and collecting institutions. Consultation will be undertaken with Indigenous organisations as part of developing any new cooperative arrangements. We endorse the repatriation of Indigenous human remains wherever possible and appropriate from both public and private collections. We note that several British institutions have already negotiated agreements with Indigenous communities for the release of significant remains.[211]

While this governmental decision within Britain shows the country's recognition of and support for the plight of Indigenous Australians, in regaining their ancestors and authority over their culture, it also brought into question the various impacts and repercussions that such a commitment would have on policies from differing institutions and collections, specifically on policies which were maintained throughout the eighteenth, nineteenth and twentieth centuries, which prioritised imperial values and ideals through the use of collections in scientific and scholarly study. For many Australian and UK national institutions, various policies prohibited the act of repatriation, causing problems and sparking concerns as claims for repatriation were rejected before being considered. Bob Weatherall expressed his sincere objection towards outdated museum policies:

> They are not willing to face the errors of their ways, and they use ancient and out-of-date legislation to prevent us having any say in the safekeeping or handling of these poor people. (Hawthorne M, AAP, 30 July 2003)[212]

[211] Department of Culture, Media and Sport, 'The Report on the Working Group on Human Remains 2003', *DCMS*, London, November 2003, pp. 2–4.
[212] Farrington, J., op. cit., p. 6.

Repatriation concerns for contemporary Australian Indigenous communities

While the establishment of various governmental programmes supporting repatriation, in addition to the differing amendments of institutional policies and governmental acts, has ensured the return of more than one thousand Australian Indigenous human remains to Australia,[213] various unforeseen issues have developed as a result of the repatriation process. Though the return of ancestral human remains is important to the Australian Aboriginal and Torres Strait Islander peoples, establishing an accurate provenance for the returned remains is integral in order to ensure that the spirits of the deceased individuals join their own community's ancestors within the spirit world. This issue of provenance in the repatriation of Australian Indigenous human remains will be further examined in Chapter Three.

Turnbull highlights that in many instances, institutions have only been able to provide communities with minimal information on the provenance of specific items in their collections.[214] However, crucial evidence pertaining to how Australian Indigenous human remains were procured has been found through examining correspondence in museum archives, records of various metropolitan and colonial government agencies, private diaries and letters, and a diverse range of printed materials.[215] This vital information is of immeasurable benefit to Australian Indigenous communities and repatriation programmes, as it aids their investigations through establishing the known provenance of the remains, ensuring that the dead are returned to the right ancestral 'Country' in accordance with their appropriate religious ceremonies.[216] Nevertheless, Turnbull suggests that in reconstructing and recounting the often horrific circumstances under

[213] Coyne, D., 'Return of remains overhaul urged', *Koori Mail*, Issue 439, 19 November 2008, p. 7.
[214] Turnbull, P., 'The Vermillion Accord and the Significance of the History of the Scientific Procurement and Use of Indigenous Australian Bodily Remains', (2010b), in Turnbull, P., Pickering, M., (2010), op. cit., p. 119.
[215] Ibid.
[216] Ibid.

which ancestral remains were procured and used, it may prove harmful to both Australian Indigenous communities and scientific researchers. This, in turn, may prove detrimental to future discussions surrounding the rights of human remains and other forms of Indigenous cultural property.[217] Therefore, museums have sought guidance from Indigenous Elders regarding appropriate methods of and approaches to repatriating remains to a community, or have employed Indigenous personnel within their museum in order to act as a liaison between museums and institutions, as will be discussed in Chapter Three.

Since the late 1970s, the repatriation of Australian Indigenous ancestral remains has allowed various communities to gain closure in knowing that their ancestors' spirits are finally free and able to enter the spirit world. However, within the process of repatriation, various unforeseen dilemmas have prompted the need for the Australian government Office for the Arts and repatriation organisations to work towards possible resolutions. These dilemmas surround issues of provenance, as well as concerns over the reburial of returned remains, as there are traditionally no Australian Indigenous ceremonies established for the 'reburial' of a human body. The moral and spiritual predicament instigated by repatriation has forced Australian Indigenous communities to reinvent and adapt traditional ceremonies and practices so as to cater to the burial, and specifically the reburial, of their ancestors.[218] This is an unsettling prospect for a culture built on ancient traditions and practices. What is feared is the possible dishonour and disastrous consequences which may be bestowed upon the ancestral spirits if they were to be wrongly reburied, as well as upon those initiating the ceremony.[219]

With regard to unprovenanced remains, the National Museum of Australia (NMA) has played an integral role throughout the process of returning human remains and secret/sacred objects to Australia since its inception in 1980. Though having never collected human remains, the NMA has inherited a vast proportion of its

[217] Ibid.
[218] Ibid., p. 47.
[219] Ibid.

holdings from its predecessor: the Australian Institute of Anatomy.[220] Michael Pickering highlights that, as Manager of the Aboriginal and Torres Strait Islander Program at the NMA, 'we [NMA] have to accept responsibility, but we don't and won't display them. Access is restricted: essentially, they are not open to researchers without community approval.'[221]

According to the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984,* the NMA is the sole 'prescribed authority' within Australia that initiates communication between Indigenous communities, ensuring that they are aware of, and provided with, all relevant documentation regarding associated human remains held within the museum.[222] Within the governmental policy, repatriated remains of known origin are sent to their community for traditional burial. However, under certain circumstances, Pickering highlights that communities have a right to store their ancestral remains within either the NMA or an appointed federal state institution for safeguarding.[223] Besterman questions the storage of repatriated unprovenanced remains within the NMA, as the NMA is a federal institution governed by a 'white' majority Australian body, and not under the control of the Australian Aboriginal community within Canberra.[224] Nevertheless, according to Pickering, the service of safekeeping remains is 'a very small courtesy that the NMA could extend, given some of the past actions of the museum'.[225] Unfortunately, not all remains repatriated are complete, with many returned in fragments or piles of ash, causing extreme difficulty in the identification and provenancing of the remains without associated records of acquisition or historiography accompanied therewith from institutions. Over the years, there have been various techniques used to determine origin, many of which have been invasive, causing further deterioration in the fragile bones. However, with continuous development in bone analysis technologies, the NMA

[220] Parker, K., 'Stolen Remains, Politics and Hope', *Koori Mail*, Issue 465, 2 December 2009, p. 46.
[221] Ibid.
[222] Ibid.
[223] Ibid.
[224] Besterman, T., 'Returning the ancestors', *Manchester Museum – The University of Manchester*, 2004, pp. 1–18.
[225] Parker, K., 'Stolen Remains, Politics and Hope', *Koori Mail*, Issue 465, 2 December 2009, p. 46.

has helped in establishing provenance for many repatriated remains stored within its collections. The application of both invasive and non-invasive techniques in the provenancing of Australian Indigenous human remains will be further discussed in Chapter Three.

Conclusion

While it is important to note the significance and historical benefit that scientific insight collected from Australian Indigenous human remains and specimens has provided for past human evolutionary theories, cultural respect towards the human remains within collections must be demonstrated, and acknowledgment of Australian Indigenous concerns made. Past stereotypical depictions of Indigenous Australians as 'savage', as detailed within expedition anecdotes brought back to Europe, in addition to the questionable and unethical means and methods used in acquiring these examples of racial distinction, for examination and display within museums and institutions, are instrumental in understanding the attitudes and ideologies of the time. The extensive acquisition of Australian Indigenous human remains in the name of scientific enlightenment from the late eighteenth century to the mid-twentieth century failed to recognise and acknowledge the rights of the Australian Indigenous people, with scientific and medical value superseding cultural concern or demonstrated opposition.

Through a modern interpretation, these attitudes and behaviours are ultimately negative and demeaning; however, they are important ideologies which have shaped and impacted on the governmental and legislative undertones of present-day Australia and the UK. While the Indigenous outcry and a call for the reclamation of their heritage have served to initiate global 'declarations' which recognise Indigenous rights and ownership over their culture and heritage, the continuous negation of Indigenous community demands has served to prompt stronger support from non-Indigenous members of the public and the demand for the repatriation of ancestral remains and secret/sacred cultural material.

Consideration towards institutional requests for repatriation by Australian Indigenous communities or representatives was initially met with vast opposition during the 1980s and 1990s. Many anthropologists, academics and curators, within both the UK and Australia, actively voiced their concerns over the loss of cultural objects and resources of invaluable scientific significance. They were, however, aware that by acknowledging claims and recognising the individual cultural needs of Indigenous communities, including their spiritual requirements and the importance of fulfilling and providing traditional mortuary ceremonies for their ancestors' stored remains, this would potentially prove costly and, ultimately, detrimental to the needs and finances of the institutions. It is encouraging, however, to note that museums in both the UK and Australia not only have demonstrated their desire to reconcile the injustices and inequalities previously inflicted upon the Australian Indigenous people, but also are continuously engaging in cultural discourse and partnership with the Indigenous communities, perhaps in the hope that agreeable ties and softer cultural discourse could aid future interaction and allow future scientific testing if required.

Although the repatriation of Australian Indigenous human remains has progressed extensively within both Australia and the UK, with many museums working on their own initiative to contact Australian Indigenous communities with an offer to repatriate affiliated ancestral remains from within their collections, there are various unforeseen concerns and issues which have arisen as a result of the repatriation process, such as the growing number of unprovenanced Australian Indigenous human remains, which have prompted the need for museum policies, regulations and agencies to reconsider their rulings and designate alternative approaches.

Chapter Two:

Repatriation policies and procedures within Australian and UK museums

Introduction

Policies are the guiding frameworks by which museums abide and are regulated and governed. Policies act as fundamental guidelines for the continuous maintenance and management of museums and the objects within their collections. Museum policies generally encompass a wide range of elements which are all integral to the running of an institution. These cover many areas, including the management and care of a collection, the conservation, storage, handling and display of the objects within their holdings, codes of ethics, research and analysis, public awareness and welfare, the security of objects and the public, copyright, as well as acquisition and disposal.[1]

With the prominence of natural history museums, as well as scientific and ethnographical collections, the abundance of animal and human remains accumulated within museum collections is a direct result and characteristic of Western colonialism.[2] The establishment of human remains policies within contemporary museums ensures that human remains and tissue specimens are displayed, treated and handled with the upmost care and consideration. Within the UK and Australia, cultural institutions have produced their own individually approved human remains policies which outline the legal and ethical frameworks for the care and conservation of remains within their collections, including

[1] Ambrose, T., Paine, C., (1993); Knell, S., (1994).
[2] Simpson, M. G., (2001); Fforde, C., Hubert, J., Turnbull, P., (2002); Fforde, C., (2004); Pickering, M., (2004); Turnbull, P., Pickering, M., (2010).

appropriate methods of accessioning and de-accessioning human remains and cultural objects, processing loans, organising displays, disposals, and, more recently, actioning requests for repatriation.

In 2003, Ratan Vaswani, a former ethical advisor for the Museums Association, emphasised the idea that the analysis and inclusion of human remains within museums serve to improve upon the previous and current understanding of cultural practices, such as foot binding and infanticide.[3] With forensic anthropology contributing to the identification of victims of crime or disaster, there have been enormous gains from the comparative study of human remains in a variety of postmortem contexts.[4] Demographic studies have explored lifestyle, diet, and seasonal food shortages, with the effects of these shown on the age and gender balance within society.[5] Continuous studies of human remains have also illuminated population movement, intermarriage between people of differing communities, historical racial content, and, consequently, the evolution, diversity and unity of humans.[6] These discoveries demonstrate the profound benefits which scientific research into human remains, within museums and other institutions, has contributed to society.[7] Scientific research, as Vaswani suggests, would have been considered a 'violation of academic freedom' if the study of human remains had not been established and conducted appropriately.[8] However, he questions the liberal use of such intense research, remarking that academic freedom is not the absolute right to study anything you wish and in any manner you wish.[9] Ultimately, this is where policies serve to maintain standards in the treatment and assessment of human remains or tissue samples within museum collections.

Though it is undeniable that Indigenous human remains have proven invaluable to the understanding of human evolution and migration, debates surrounding the

[3] Vaswani, R., (2003); Alberti, S. J. M. M., et al., (2009).
[4] Vaswani, R., op. cit.
[5] Ibid.
[6] Turnbull, P., (1997; 2007; 2008); Fforde, C., Hubert, J., Turnbull, P., (2002); Pate, F. D., et al., (2002); Vaswani, R., (2003); Jenkins, T., (2010); Fforde, C., (2013).
[7] Swain, H., (2007); Jenkins, T., (2010).
[8] Vaswani, R., op. cit.
[9] Ibid.

future presence and function of Indigenous human remains within museum displays have forced authorities to reconsider their approach to and position on the matter.[10] This includes institutions' overall mission in respect of the public, and the cultures and communities that they represent and examine through their displays. The introduction of human remains policies serves to address these changes in attitudes and initiate ethical parameters, while promoting respect and cultural consideration towards all human remains on display and within their collections.

This chapter will examine how the development of repatriation and human remains policies and procedures within UK and Australian museums serves to acknowledge the respectful treatment of human remains within their custody, as well as to illustrate the development and evolution of the repatriation process. This includes examining institutional acknowledgment of Indigenous claims, and Australian Indigenous responsibility and affinity to their ancestors' remains. The attitudes expressed towards the display and educational use of Australian Indigenous human remains within UK museums will be discussed with the introduction of various governmental legislation and guidelines, such as the *Human Tissue Act,* specifically its 2004 amendment (which was instigated for the continuous encouragement of repatriation within museums and the safekeeping of Indigenous heritage). With institutions' main argument supporting the continuous retention of Australian Indigenous human remains, supplying an educational and scientific benefit to both the Indigenous and the non-Indigenous public, this chapter will look at developed human remains and repatriation policies from various university museums within the UK, as well as highlight academic opinion with regard to the future purpose and function that these remains hold for institutions and scholars, including their position on the issue of repatriation and the future cultural benefits that it may provide. Australian museums, governmental repatriation policies, and established repatriation agencies will also be discussed, and their value for institutions and Australian Indigenous communities highlighted.

[10] Bahn, P., (1984); Mulvaney, D. J., (1990); Kelly, B., (2004); Lohman, J., Goodnow, K., (2006); Swain, H., (2007); Walker, P. L., (2008); Jenkins, T., (2010); Fletcher, A., et al., (2014); Gazi, A., (2014).

While this chapter does not specifically delve into the issue of unprovenanced Australian Indigenous ancestral remains, per se, it does, however, examine particular institutional requirements and specifications for Indigenous communities and institutions to follow when making a repatriation claim, which have consequently caused the dilemma of processing unprovenanced remains and limited the ability of their return to 'Country'. Furthermore, as unprovenanced Indigenous human remains are becoming a more pressing issue within the repatriation process on a global scale, the reference to and acknowledgment of unprovenanced human remains within both UK and Australian repatriation policies must be examined, with institutional and cultural limitations and requirements recognised and addressed, in order to recognise and acknowledge the need to implement possible future changes.

Human remains policies and repatriation agencies within UK museums

The Department of Culture Media and Sport (DCMS) notes, in its *Guidance for the Care of Human Remains in Museums*, that under the principles of English and Welsh law the concepts of property and rights of ownership are not fully recognised with regard to human bodies or tissue, with the exemption of remains which have been altered through the 'treatment or application of skill'.[11] Consequently, it is only through a relevant authority that custody of skeletal remains can be assigned to an individual, community or institution.[12] However, policies in other jurisdictions outside of England and Wales, such as the Native American Graves Protection and Repatriation Act (NAGPRA) (1990), may recognise certain variations in the rights of ownership over human remains or burials.[13] By comparison, English law's

[11] Department for Culture, Media and Sport, 'Guidance for the Care of Human Remains in Museums', *DCMS*, London, October 2005, p. 12.
[12] The University of Manchester, 'Policy Document for the Strategic Development of The Manchester Museum: Policy on Human Remains', op. cit., p. 2.
[13] Department for Culture, Media and Sport, 'Guidance for the Care of Human Remains in Museums', op. cit., p. 12.

definition of the term 'ownership' would ultimately serve to refute Australian Indigenous claims of tenure over their ancestral remains, thereby categorically emphasising that the remains are not, and cannot be, legally owned by anyone.[14] Nonetheless, Vaswani reinforces that the belief that one cultural group has the authority to dictate the means and method of display, conduct research and, ultimately, do as it wills with the ancestral remains of another cultural group is, as implied within a Working Group report, an act of racism at odds with enlightened science and the spread of humanitarian values that underpin modern museums and anthropology.[15]

While human remains policies were originally implemented within museums to ensure the maintained safeguarding of human remains within a collection, Australian Indigenous human remains were still being displayed within many museums and without Indigenous consent or knowledge. It was not until the late 1990s that the display of human remains within UK museums, specifically natural history museums' anatomical and ethnographical collections, was subjected to critique, forcing the re-evaluation of the incorporation of such remains within traditional methods of curation and exhibition.[16]

According to Vaswani, this issue was part of an unfolding international political agenda which centred on rectifying past wrongs in the treatment of colonial and imperial subjects, and implementing equality with 'whites'.[17] For countries which encompass Indigenous communities, such as Australia, New Zealand and those in North America, 'white guilt' is a constant precursor in racial undertones. This is, at times, reinforced by government officials who are inadvertently promoting their expressed guilt through their acts to alleviate the inequalities and injustices previously inflicted upon, and experienced by, Indigenous communities. That being said, guilt is not the sole reason for the changes in curatorial practices in the

[14] The University of Manchester, 'Manchester Museum Policy for the Care and Use of Human Remains 2013-2016', *Manchester Museum*, April 2013, p. 2.
[15] Vaswani, R., 'Attitudes towards treatment and return of human remains: A British perspective', *Museum Association*, 2003, paper presented to International Congress of Anthropology Conference, <http://www.museumsassociation.org/asset_arena/2/68/8862/v0_master.doc> [accessed 10/06/14].
[16] Curtis, N. G. W., (2003); Lohman, J., Goodnow, K., (2006); Alberti, S. J. M. M., et al., (2009); Jenkins, T., (2010); Turnbull, P., Pickering, M., (2010); Giesen, M., (2013); Fletcher, A., et al., (2014).
[17] Vaswani, R., op. cit.

treatment and display of Indigenous human remains. On a global scale, shifts in ethical practices, and a move towards more inclusive exhibitions which seek insight and involvement from Indigenous communities, have dramatically impacted on the instigation of cross-cultural communication and the development of ethically considerate and morally sound museum policies.

In order to aid the repatriation of Australian Indigenous human remains from UK museums, the Working Group on Human Remains (WGHR) was initiated in May 2001, following recommendations published in 2000 by the Select Committee on Culture, Media and Sport on Cultural Property: Return and Illicit Trade.[18] What was noted, following the 2000 report, was the lack of guidance provided for museums and a need for additional discussions with a view to preparing a statement of principles relating to the care and safekeeping of human remains within collections and guidelines drawn up to process the requests for their return.[19] In addition, the report emphasised a need for better access to information regarding human remains in collections, expressing the necessity for the DCMS to undertake a consultation exercise on the terms of legislation in order to permit the trustees of national collections to remove and dispose of any human remains from their collections.[20]

A further event which led to the establishment of the Working Group was the official statement from John Howard and Tony Blair, in July 2000,[21] declaring their commitment to a long-term cooperative endeavour for the return and identification of Australian Indigenous human remains from British museums, in consultation with Indigenous communities or a liaising mediator, as previously highlighted in Chapter One. Former PM John Howard's *Indigenous Remains UK Report* praised the works of the UK Ministerial WGHR, as they build up sentiments of goodwill on behalf of the United Kingdom, and demonstrated their continuous determination in aiding Australian Indigenous communities in the return of their

[18] Department of Culture, Media and Sport, 'The Report on the Working Group on Human Remains 2003', op. cit., p. 2.
[19] Ibid.
[20] Ibid.
[21] Ibid., pp. 2–4.

ancestors.[22] Howard commended the Working Group report, stating that 'the report is a victory for common sense', especially as it served to recognise and distinguish the role that museums play in education and research for the benefit of greater humanity.[23]

Following on from the NAGPRA and the *Vermillion Accord on Human Remains*, the UK government demonstrated its support for Indigenous communities and claimants, through the development of various recommendations which institutions are 'encouraged' to consider, in order to build a rapport with Indigenous communities. The DCMS has, within the UK, established various handbooks with which to guide cultural institutions in the appropriate methods and means of looking after human remains within their collections. The DCMS's 2005 Guidance provides an in-depth framework and legal rulings which UK institutions are strongly encouraged to adopt when engaged in the treatment of human remains within their collections, and, more recently, the process of de-accessioning human remains for repatriation.[24] In 2003, under the then-Minister for the Arts, the Right and Honourable Alan Howarth CBE MP, and the chairmanship of Norman Palmer,[25] the WGHR published a report which outlined the legal obligations and various distinctions surrounding the official classification of 'human remains' and, subsequently, the possibility for a museum to consider de-accessioning or repatriation. The report distinguishes between human remains as cultural 'goods', residing within collections and supported by scientific interest, curiosity, and foreign affairs, and those human remains that are perceived to be 'ancestors' and, consequently, determined to be ethically inappropriate subjects for collection and display.[26] According to the DCMS 2005 report, human remains are defined as:

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[22] 'Media Release: Indigenous Remains UK Report', *Prime Minister of Australia John Howard News Room*, 6 November 2003, <http://pandora.nla.gov.au/pan/10052/20031121-0000/www.pm.gov.au/news/media_releases/media_Release557.html> [accessed 12/06/14].
[23] Ibid.
[24] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', *DCMS*, London, October 2005.
[25] Barrister, Professor of the Law of Art and Cultural Property at University College London, Chairman of the Illicit Trade Advisory Panel, Chairman of the Treasure Valuation Committee (Department of Culture, Media and Sport, 'The Report on the Working Group on Human Remains 2003', p. 1).
[26] Flessas, T., op. cit., p. 3.

> ...the bodies, and parts of bodies, of once living people from the species Homo sapiens (defined as individuals who fall within the range of anatomical forms known today and in the recent past) and any evolutionary earlier hominins with which modern humans today may share a common ancestor (e.g. Homo neanderthalensis). This includes osteological material (whole or part skeletons, individual bones, or fragments of bone or teeth), soft tissue including organs and skin, embryos and slide preparations of human tissue.[27]

In line with the *Human Tissue Act* 2004, the DCMS definition does not include hair and nails. Human remains also include any of the above which may have been modified in some way by human skill or may be physically bound up with other non-human materials to form an artefact composed of several materials. This definition includes artworks composed of human bodily fluids and soft tissue.[28]

Furthermore, both the DCMS report and the *Human Tissue Act* 2004 acknowledge that for some Indigenous cultural communities many of the abovementioned human remains, including hair and nails, are of sacred importance, and will endeavour to liaise with claimants and their communities if a claim is made against specific cultural materials which include any biological remains.[29] This above definition has been adopted by many museums within the UK, with some, such as the National Museum of Wales, including the definition within their Collection Management Policy on their human remains webpage.[30] Many institutions, such as the Royal Albert Memorial Museum (RAMM), National Museums Liverpool (NML) and the British Museum, have included the definition of human remains as outlined by the DCMS and the *Human Tissue Act* 2004 within their human remains policy. They have additionally highlighted the government-approved guides adopted in the treatment and care of any human remains within their collections.[31]

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[27] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', *DCMS*, London, October 2005, p. 9.
[28] Ibid.
[29] Ibid.
[30] Welsh Government, 'Collections Management Policies', *National Museum Wales*, <https://museum.wales/corporate/collections/management/> [accessed 12/09/14].
[31] Royal Albert Memorial Museum and Art Gallery, 'Collections Development Policy 2014-2019, Appendix A – Human Remains Policy', *Exeter City Council*, January 2014, p. 1.

Moreover, the 2004 amendment to the *Human Tissue Act* of 1961 served to support the act of repatriation and highlighted previously implemented legislation adopted by national institutions which restricted and prevented any removal or repatriation of objects within their collections. Many of the previously restrictive museum policies, which were prevalent within national institutions and museums during the nineteenth and twentieth centuries, were influenced by British imperialist attitudes and sovereignty.[32] The *British Museum Act 1963* held such a clause which ensured that no object within the collection was to be disposed of[33] unless the item in question was either damaged, a duplicate, or unfit for continuous study due to its condition.[34] The act, however, did not provide authority to release any human remains from their collections.[35] Due to the concern of preventative legislation, the WGHR suggested that 'expressed relaxation of the [*British Museum*] Act would enable the relevant museums to return remains at their discretion, without any concern that such a return is contrary to law'.[36] Though progressing forward, the expressed relaxation of the 1963 act was, and to a degree continues to be, a cause for concern for the future of the British Museum and the integrity of its collection, serving to perpetuate the controversial call for the return of highly valuable and culturally significant objects.[37]

On the surface it may appear that the *Human Tissue Act 2004* supports the repatriation of human remains; however, upon closer observation, various limiting provisions can be identified which question the effectiveness of the act. The main limitation of the act surrounds the exclusion, and in turn exemption, of

[32] Fforde, C., (2004); Turnbull, P., (2008).
[33] Under the British Museum Act 1963, disposal of objects within the collection is determined by the Trustee and in accordance with Section 5 or 9 of the Act, or Section 6 of the Museums and Art Galleries Act 1992.
[34] UK Parliament, 'British Museum Act 1963, Chapter 24, Annex 1', Royal Assent, 10 July 1963, United Kingdom (Repealed by the Statue Law (Repeals) Act 1974), 1963.
[35] Ibid.
[36] Royal Albert Memorial Museum and Art Gallery, 'Collections Development Policy 2014-2019, Appendix A – Human Remains Policy', *Exeter City Council*, January 2014, p. 1.
[37] Carvajal, D., 'Museums Confront the Skeletons in Their Closets', *The New York Times*, 24 May 2013, <http://www.nytimes.com/2013/05/25/arts/design/museums-move-to-return-human-remains-to-Indigenous-peoples.html?pagewanted=all&_r=0> [accessed 16/06/14].

large collections within England, such as university and private collections, in the repatriation process of human remains.[38] In addition, the allocation of a hundred-year time limit suggests that remains dating prior to 1904 are 'exempt from the requirement of consent' for repatriation.[39] This main limitation for many Australian Indigenous people and government officials was deemed unacceptable. In viewing the limitation, an additional sanction was put in place within section 47 of the 2004 act. This sanction detailed the allocation of nine public institutional bodies within the UK[40] to be prescribed with the authority and approval to de-accession any human remains within their collections for any reason that the individual institution deems fit.[41] This includes remains believed to originate from a person who died less than one thousand years prior to the act.[42] These nine national institutions within England are continuously encouraged to repatriate any human remains within their collections which have a proposed claimant.

Responses from the Royal College of Surgeons of England, and the Board of Trustees of the Hunterian Museum, towards the *Care of Historic Human Remains: A Consultation of the Report of the Working Group on Human Remains* highlighted, within the museum sector, the need for established guidance setting out how to approach issues surrounding the holding of human remains by museums in England, Wales and Northern Ireland.[43] Accordingly, this Guidance is non-statutory and is available equally to all museums, not only those listed in section

[38] 'The British Government's Working Group on Human Remains', *Desmond Griffin*, 2003, <http://desgriffin.com/Indigenous-intro/bgwghr>/> [accessed 16/06/14].
[39] Keeler, H., 'Indigenous International Repatriation', *Arizona State Law Journal*, Vol. 44, 2012, p. 759.
[40] Section 47- Power to de-accession human remains: (1) This section applies to the following bodies—the Board of Trustees of the Armouries, the Trustees of the British Museum, the Trustees of the Imperial War Museum, the Board of Governors of the Museum of London, the Trustees of the National Maritime Museum, the Board of Trustees of the National Museums and Galleries on Merseyside (now National Museums Liverpool), the Trustees of the Natural History Museum, the Board of Trustees of the Science Museum and the Board of Trustees of the Victoria and Albert Museum. This therefore permits these nine institutions to transfer from their collection any human remains which they reasonably believe to be pertaining to a person who died less than one thousand years before the day on which this section (Section 47) comes into force if they deem it to be appropriate to do so, and for any reason, whether or not relating to their other functions.
[41] UK Parliament, 'Part 3: Section 47- Power to de-accession human remains', Human Tissue Act 2004, Crown, Stationery Office Limited: UK, November 2004, pp. 29–30.
[42] Ibid.
[43] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', *DCMS*, London, October 2005, p. 5. (Within this document it is noted that at the time of the document's initiation, separate Guidance was being considered for institutions in Scotland.).

47 of the *Human Tissue Act 2004*.[44] This previous statement is paramount, as it not only acts as a trigger for institutions within the UK to repatriate, but also equalises the status of all museums, both national and independent.

Sir Neil Chalmers, former Director of the National History Museum in London and a member of the Working Group, issued a statement of dissent in which he claims that, if adopted, the proposals for seeking consent from Indigenous groups would amount to the introduction of a regime of mandatory repatriation.[45] He continues, arguing that in following these recommendations, consent from genealogical descendants or their community surrogates would be proposed with total priority over any other considerations irrespective of the age, or certainty of the identity, of the human remains in question, or the distance of the relationship between the deceased and the claimants. According to Chalmers, this decision does not take into account the public value of research into human remains.[46] Though acknowledging the important role that Indigenous Australians play in the process of returning and caring for ancestral remains within museum custody, Chalmers, however, suggests that they cannot be trusted to make the right decisions regarding the greater benefit that influential human remains may hold for humanity, and the methods of preservation that are involved in the maintained care and safeguarding of such invaluable resources.[47] Though it is true that Indigenous communities may not be equipped with the appropriate knowledge for the care and conservation or scientific analysis of their ancestral remains, they do, however, have the cultural expertise and authority to ensure that the souls of the remains repatriated are treated with the utmost respect and are provided with the opportunity to be released into the spirit world, so as to rest with their ancestors. Chalmers continues, stating:

> …I am concerned that some of the detailed recommendations of the Report, including an elaborate regulatory system, are

[44] Ibid.
[45] Vaswani, R., (2003); Department of Culture, Media and Sport, 'Working Group on Human Remains: Human Remains Report – Chapter 13', *DCMS*, 2003, pp. 177–184.
[46] Department of Culture, Media and Sport, 'The Report on the Working Group on Human Remains 2003', *DCMS*, London, November 2003, p. 226.
[47] Ibid., p. 228.

> unnecessarily bureaucratic and in practice unworkable. I am also concerned that the Report does not fully recognise the undoubted public benefits deriving from medical, scientific and other research. The museum's mission is to promote the discovery and understanding of the natural world and we have a strong commitment to continuing this vital scientific research for the benefit of all.[48]

That being said, Chalmers does indicate his support for the leading recommendations for the change in legislation. This gives museum trustees the ability to make discretionary decisions in respect of the future of human remains in their collections. It also gives the recommendation for an independent licensing authority, with an associated code of practice, to ensure high standards of care for collections. In addition, it ensures fair and transparent procedures for considering repatriation requests.[49] Chalmers does, however, reiterate:

> These are very complex and difficult questions. A change to the law, together with a clear ethical framework for decision-making, would enable us to conduct more open discussions with claimants, which we welcome. We recognise the concerns of Indigenous communities around the world, and need to weigh this up against the great value to humanity of holding our collections and the important research they support.[50]

Cultural authority and empowerment is a prominent notion which both UK and Australian governments, and cultural institutional bodies, have reinforced through the recent amendments to governing policies and legislation. The 2010 British Museum Amended Act gives leeway for the progress of repatriation, as it allows for the Trustees of the British Museum to transfer any object within their holdings to any other institution if, in the opinion of the Secretary of State, the object came to become part of the museum's collection under circumstances which make its retention within the collection undesirable or inappropriate.[51] This amendment is a clear indicator of the British Museum's acknowledgment of

[48] 'Scientists respond to the report of collections of human remains', *Science Media Centre*, 7 November 2003, <http://www.sciencemediacentre.org/scientists-respond-to-report-on-collections-of-human-remains-2/> [accessed 14/06/14].
[49] Ibid.
[50] Ibid.
[51] UK Parliament, 'British Museum Act 1963 (Amendment) Bill, Bill 37', 6 January 2010, Authority of the House of Commons, London, The Stationery Office Limited: United Kingdom, 2010, p. 2.

both Indigenous cultural values and previous colonial impact, including attitudes expressed by the British nation and those previously displayed within the British Museum and other British institutions.

Analysis of various UK university museum human remains collection policies

Since their inception, museums have been viewed as centres for education and enlightenment and as spaces designed for the expansion and discussion of theoretical ideologies within the public domain, while encompassing objects and specimens for further research and understanding.[52] Due to this, museums and their collections have worked hand in hand with higher educational learning institutions and universities. The Organisation for Economic Co-operation and Development analyses the significance of university museums within both public and academic spheres, highlighting that even though the primary role of university museums and galleries is the safekeeping of influential and unique objects within a university's specialist and research collections, they are also powerful resource centres for higher education institutions wishing to maximise the impact of their teaching and research and look to reach new audiences within their region or beyond.[53] They, therefore, hold a unique role in bridging the dispersal of knowledge, and the understanding of science and society.[54] While connected and governed by university policies and boards of trustees, university museums acknowledge and follow, to a certain degree, the various policy guidelines and legislation developed and promoted amongst national cultural institutions. As with most museum policies, certain collection management and governmental protocols must be adhered to in order to sustain continuous levels of care, conservation and management of the objects within their collections. However, as a counterpart of the higher education system, university museums are perhaps provided with a greater flexibility in the themes and discourse

[52] Swain, H., (2007); Jenkins, T., (2010); Knapman, G., (2012).
[53] Kelly, M., 'Managing University Museums. Education and Skills', *Organisation for Economic Co-operation and Development*, Paris, 2001, p. 3.
[54] Ibid.

initiated through their exhibitions, displaying, at times, more controversial and thought-provoking concepts and ideas in a manner targeted towards higher education students and academics, also in the pursuit of educating the general public.[55] However, that is not to say that controversial content matter is limited to university museums only.

University museums, in varying ways, have increasingly sought to serve wider audiences through exhibitions, permanent displays, education, and public services.[56] Therefore, they must ensure that their collections have meaning for all students, through either a social, educational or research role.[57] Nevertheless, university museums have the chance to play a central role in shaping their own future and that of the university. They achieve this through linking with the external museum community, establishing a focal point for relevant scholarships and research, while also engaging with the public as specialist museums with various points of access.[58]

As resources of scientific and historical knowledge, many university museums in the UK house objects and artefacts of current contention, specifically human remains and Indigenous cultural material. A large proportion of human remains and specimens currently stored within UK university collections were acquired by many university personnel or alumni with their primary function being to serve a research and educational purpose. Dr William Ramsay Smith was an example of this avid collecting, as he not only preserved the human tissue of up to 600 people to be sent to his various *alma mater*, but also is said to have been almost singlehandedly responsible for what was established as the University of Edinburgh's vast collection of Australian Indigenous remains.[59]

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[55] Kelly, M., (2001); Were, G., (2010, p. 291).
[56] Kelly, M., 'Managing University Museums. Education and Skills', *Organisation for Economic Co-operation and Development*, Paris, 2001, p. 49.
[57] Ibid., p. 145.
[58] Ibid.
[59] Daley, P., 'The bone collector: a brutal chapter in Australia's past', *The Guardian*, 14 June 2014, <http://www.theguardian.com/world/2014/jun/14/aboriginal-bones-being-returned-australia> [accessed 11/11/16].

With the developed argument surrounding not only the removal of human remains from display, but also the repatriation of Indigenous human remains, it was, and in some respect still is, academic and scientific opinion that educational interest and scientific significance hold greater substance than do cultural claims.[60] The argument surrounding the integral scientific contribution that further research into Indigenous ancestral remains will make to the public, and specifically future generations of Australian Indigenous people, as reinforced by Foley in Chapter One, is refuted by many Indigenous Australians, such as Allen Madden, who reiterates that, through their heritage and oral traditions, they are fully informed of the longevity and sacredness of their culture and people.[61] Nevertheless, it cannot be denied that without past scientific involvement, evolutionary theories and human migration paths may not have been easily uncovered. In the present day, however, it seems that such invasive and culturally insensitive scientific investigations using Australian Indigenous ancestral remains are not always necessarily required in order to ascertain culturally specific information, with less invasive methods employed as a more preferable and culturally sensitive approach. Issues relating to the application of invasive and non-invasive scientific methods for the extraction of required information regarding the provenance of Australian Indigenous human remains will be discussed in the next chapter.

Other university academics have expressed their concerns over repatriation, with many questioning the authority of the claimants as well as their ability to maintain the safety and preservation of the remains. Though acknowledging the cultural importance that the remains have for Indigenous communities, the fear of repercussions, due to future changes in legislation and policy, was expressed. In response to the Working Group's report on human remains within museums,

[60] This opinion, though popular within the UK from the late 1980s to 1990s, has fluctuated since the development of the repatriation debate, with many academics, scientists, historians and museum staff recognising the importance of both sides of the debate and the imminent benefit which Australian Indigenous ancestral remains can provide for both Australian Indigenous community claimants and wider social history (Fforde, C., (2004); Jenkins, T., (2008); Alberti, S. J. M. M., et al., (2009)).

[61] 'Narrabeen Man: Allen Madden interview', *Catalyst Special Edition*, 25 July 2008, <http://www.abc.net.au/catalyst/forensics/> [accessed 04/02/16].

Professor Foley reiterated the importance of continuous and cohesive scientific analysis:

> The scientific study of human remains has played a major role in revealing our history, especially for peoples and times without writing. If the Palmer Report recommendations, as reported, are implemented, then the future of these collections will be threatened. We should be learning from skeletons, not reburying them – they are the remains of people still contributing to humanity and its knowledge of itself.[62]

This desire for a compromise, regarding the issue of repatriation, is one which many scientists and archaeologists are striving to achieve. However, it is an idea which Indigenous communities find unproductive in their aim to regain their cultures and lost ancestors. In response to the WGHR Report, Bill Sellers, who was then a lecturer in human anatomy at Loughborough University, said:

> At least we've got clear guidance on this issue now. And the proposed committee will hopefully ensure that the stuff from our museums gets sent back to the right people, rather than simply being shifted to museums in different countries. But it's vitally important that we are able to take photographic records of all these specimens before they are lost to science forever. This ruling will break up collections that are very valuable to science – we can learn a great deal about human evolution from them. Now that we have new techniques, such as extracting DNA from the specimens, the opportunities for study are even greater – but now those opportunities will be lost.[63]

Sellers' concerns regarding the movement of human remains from one museum to the next, though not ideal, are such that the cases for remains with no known provenance, or those placed within the temporary care of the museum at the request of the community, are assured adequate care until a decision can be made as to the remains' final resting place; this concept of determining a final resting place for unprovenanced ancestral remains will be examined in Chapter Four. The

[62] 'Scientists respond to the report of collections of human remains', *Science Media Centre*, 7 November 2003, <http://www.sciencemediacentre.org/scientists-respond-to-report-on-collections-of-human-remains-2/> [accessed 14/06/14].
[63] Ibid.

desire to take plaster casts, photographs, samples and records of remains repatriated is a cultural issue which Indigenous communities have the authority to either consent to or refuse. In addition, Marta Mirazon Lahr, Director of the Duckworth Laboratory, University of Cambridge, stated in opposition to repatriation and the WGHR report:

> Claims for repatriation are based on ideas of biological and cultural descent, but human populations are not bounded entities through time, and biological and cultural ancestral affiliations are fluid concepts – who are the descendants of our Saxon skeletons, or Iron Age, or Norman ones? Today, the skeletal and cultural remains of these populations are considered part of the complex biological and cultural history of our country, to which all these groups, and many others, have and continue to contribute. Future generations of Australians will also be able to trace their ancestry to a combination of peoples, or more likely, simply know that various people make-up their ancestry without actually being able to trace it. Why should part of our global heritage today and the local heritage of future generations of Australians be destroyed today?[64]

This is a very poignant question which many Indigenous people would find offensive and hurtful. Mirazon Lahr has every right to question the rights and authority that Indigenous claimants have in respect of the repatriation of remains which are hundreds or thousands of years old, and which, for the past few decades, have been housed within Western institutions and have played a vital role in the scientific understanding of human migration, diseases and past Indigenous cultures for the greater population. Nevertheless, it is the act of having wrongfully removed the remains from their place of origin, and the need to ensure their ancestors' spiritual connection and continuity into the 'Dreamtime', according to their community's beliefs and practices, that must be rectified, even if the remains hold historical or scientific significance. These Indigenous remains ultimately form part of a unique Indigenous heritage and kinship. While the Duckworth Laboratory (Leverhulme Centre for Human Evolutionary Studies) is not necessarily a University museum in itself, it is comprised of an amalgamation of various collections and objects from differing institutions and Universities, or from the University of Cambridge alumni, which serves as a prominent institute of academic

[64] Ibid.

interest and research into human and primate anatomy and human evolution. Recognised as one of the world's largest repositories of human remains, the Duckworth collection has been used by scientists and students for over one hundred years.[65] In 2010, the University of Cambridge, working with the Director of the Duckworth Laboratory, established a university-wide policy specifically designed for the handling of claims for repatriation and other forms of transfer of stewardship of human remains in its care.[66] The procedural policy is constructed in line with the institutions own position on the process of repatriation, while also taking into consideration and implementing some of the DCMS own Guidelines on the treatment and care of human remains within museums.[67]

In the repatriation of human remains, various university museums within the UK hold differing opinions on the issue. As institutions targeted towards education, research and progressive theories, university museums are perhaps given greater liberty to act of their own accord and under their own governance and constructed policies. The outright repatriation of human remains from university collections is one which still remains highly contentious at present. Like national museums, university museums are not obliged to return human remains which have been claimed. Although taking into account the various recommendations and guidelines detailed by the DCMS and the Working Group, policies and procedures are developed by the universities' boards of trustees, which can ultimately be prone to institutional influence and bias.

The University of Oxford published a gazette in 2006, entitled the *Policy on Human Remains Held by the University of Oxford's Museums,* which details the various procedures and policies relating to human remains enforced and administered by their institution. Similar to other museum policies, the University of Oxford reinforced the use of the DCMS's *Care of Human Remains in Museums* 2005 report

[65] 'What is the Duckworth Laboratory?', *Leverhulme Centre for Human Evolutionary Studies-University of Cambridge*, 2012, <http://www.human-evol.cam.ac.uk/duckworth-lab.html> [accessed 05/03/18].
[66] Ibid.
[67] The University of Cambridge, 'Procedure for handling claims for the transfer of stewardship of human remains', *The University of Cambridge*, 2010.

in the guidance and recommendations for their own policy.[68] The Oxford Gazette clearly illustrates that human remains, be they unmodified or transformed by human skill into artefacts, are included within the collections of each of the four museums.[69] Furthermore, these include samples of hair and tissue, mummified bodies, skeletal remains, and artefacts made from, or incorporating, human remains.[70]

Nevertheless, the University of Oxford emphasised that, be they modified or unmodified, the human remains within its collections are of considerable significance for the understanding of the biological processes of disease, and their history of diet and population movements over time.[71] Moreover, the university believes that human remains and artefacts made from, or incorporating, human remains aid in illustrating the variety of different cultural practices worldwide, including cultural ideas relating to physical attributes, Indigenous medical practices, burial practices, and ideas pertaining to the afterlife.[72] Not only does it highlight the significance that its remains have for scholarship and teaching within the University of Oxford, but it also enforces the significance of wide public interest, the benefits of accessing a greater audience, and the need for attracting funds and resources which allow the university to gain.[73] Article 1.6 of the policy reinforces that, due to the various reasons previously mentioned, the presumption is that human remains and artefacts made from, or incorporating, human remains in the university's collections will remain intact for future generations.[74]

As the DCMS Guidance observes, the vast majority of research into human remains in the United Kingdom is uncontroversial and has vast popular and academic

[68] University of Oxford, 'Policy on the Human Remains Held by the University of Oxford's Museums', *Oxford University Gazette*, Supplement (2) to No. 4787, 15 November 2006, p. 373.
[69] Four museums: the Ashmolean, the Museum of the History of Science, the Oxford University Museum of Natural History, and the Pitt Rivers Museum (University of Oxford, 'Policy on the Human Remains Held by the University of Oxford's Museums', *Oxford University Gazette*, Supplement (2) to No. 4787, 15 November 2006, p. 373).
[70] Ibid.
[71] Ibid.
[72] Ibid.
[73] Ibid., pp. 373–377.
[74] Ibid.

support.[75] Though the University of Oxford mentions its recognition that certain human remains and artefacts made from, or incorporating, human remains have, in recent years, come to be regarded as culturally sacred and sensitive, its position is ultimately reflected through its belief that the research and display value of human remains has to be balanced against the claims of genealogical descendants and cultural custodians.[76]

Manchester Museum, affiliated with the University of Manchester, additionally has its own individually administered policy on human remains and, like the University of Oxford, has used the DCMS Guidance in its development. What is of particular interest with the *Manchester Museum Policy for the Care and Use of Human Remains 2013-2016* is that its definition of 'human remains' differs slightly from that written within the DCMS Guidance and the *Human Tissue Act 2004*. The Manchester Museum definition of human remains is as follows:

> For the purposes of this policy, human remains are defined as including human skeletons, bones and teeth, ashes, soft tissue including internal organs and skin, nails, blood, hair, embryos and slide preparations of human tissue. Human remains also include any of these types of material that have been modified in some way by human skill.[77]

The slight variation in definition is of particular note because the definition permits the institution to repatriate any remains from its collections which come under this above definition. This definition ultimately demonstrates Manchester Museum's position surrounding the display of human remains and, more specifically, its continuous support for the repatriation of Indigenous human remains and cultural materials from its collections. Furthermore, it adheres to the advice of the Museum Association's Code of Ethics:

> Respect the interests of originating communities with regard to elements of their cultural heritage present or represented in the museum. Involve originating communities, wherever practical, in

[75] Ibid., p. 373.
[76] Ibid.
[77] The University of Manchester, 'Manchester Museum Policy for the Care and Use of Human Remains 2013-2016', op. cit., p. 2.

> decisions about how the museum stores, researches, presents or otherwise uses collections and information about them.[78]

In addition, where there is genealogical descent or continuing cultural affiliation to particular human remains, the museum will consult with the appropriate communities on activities involving those remains.[79] Both the University of Oxford Museum and Manchester Museum have been involved in the repatriation of Australian Indigenous human remains, as well as other university museums within the UK and Australia,[80] demonstrating continuous consideration and support for claims that are made.

Australian government repatriation agencies

Though Indigenous communities have been lobbying for the removal and return of previously stolen ancestral remains since the 1980s, it was not until the mid-1990s that growing public support and the outcry for the return of Australian Aboriginal and Torres Strait Islander remains, and secret/sacred objects within Australia, led the Australian federal and state governments to establish relevant organisations and policies for their recovery. Various organisations were established in order to support Elders and community leaders in negotiating the return of remains from overseas collections.[81] Support for government-sponsored research projects to determine the provenance of Australian Indigenous ancestral remains before returning them to their affiliated communities will be further examined in Chapter Three.

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[78] Museums Association, 'Code of Ethics for Museums: Ethical principles for all who work for or govern museums within the UK', *Museums Association*, London, 2008, p. 18.
[79] Ibid.
[80] In 2003 the University of Melbourne repatriated 400 bones and skulls to Museum Victoria following their discovery in a storeroom in the department of anatomy. According to the university, the bones form part of the Richard Berry Collection, which had previously been presumed lost. The university has since apologised for any distress or hurt that their retention may have caused and any understandable indignation felt by Indigenous Australians. In addition, the university is contributing AUS$172,000 towards the cost of the repatriation and reburial of the remains (Cervini, E., 'Human remains found in uni storeroom', *The Age*, 16 February 2003, <http://www.theage.com.au/articles/2003/02/15/1044927848160.html> [accessed 01/03/17]).
[81] Turnbull, P., 'Introduction', (2010a), in Turnbull, P., Pickering, M., (2010), op. cit., p. 4.

The International Repatriation Program (IRP), an Australian governmental organisation administered by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), was initiated to work with international institutions so as to facilitate the unconditional return of Australian Indigenous ancestral remains held within overseas collections to their place of origin.[82] Additionally, the Office of Indigenous Policy Coordination (OIPC), under the FaHCSIA, is responsible for the Australian national coordination of the Australian government's approach to the provision of programmes and services to Australian Aboriginal and Torres Strait Islander peoples.[83] More importantly, it is the primary source of information and advice on Australian Indigenous issues to the FaHCSIA, through evaluating and reporting on the performance of current governmental policies and programmes for Indigenous people.[84] Furthermore, the OIPC is responsible for coordinating governmental programmes and services, ensuring that the government listens directly to its Indigenous communities, and communicating governmental policy and programme directions to Indigenous people and the general community.[85] These various government agencies have been working to return Australian Indigenous human remains and cultural properties to their originating communities. The Office for the Arts (OFTA) has demonstrated its efforts over the years through building relationships with various institutions and government officials who have been identified to hold large numbers of Indigenous human remains, in order to continually push repatriation.[86]

In 2009, the IRP estimated that more than one thousand ancestral remains had been repatriated from international institutions since 2000, with an estimated nine hundred known remains still outstanding.[87] Within the early stages of repatriation, the Australian Cultural Ministers Council commissioned the development of a strategic plan for the active return of Australian Indigenous

[82] Parker, K., 'Stolen Remains, Politics and Hope', *Koori Mail*, Issue 465, 2 December 2009, p. 43.
[83] Australian Government, 'Information Sheet: Office of Indigenous Policy Coordination', *Department of Families, Housing, Community Services and Indigenous Affairs*, Canberra, March 2006, p. 1.
[84] Ibid.
[85] Ibid.
[86] Ibid.
[87] Parker, K., 'Stolen Remains, Politics and Hope', *Koori Mail*, Issue 465, 2 December 2009, p. 43.

ancestral remains and secret/sacred objects within Australian institutions.[88] As a stepping stone towards further progress in repatriation, various crucial objectives were highlighted, and following the 1998 Cultural Ministers Council meeting, the Return of Indigenous Cultural Property (RICP) programme was initiated. This programme aimed to aid not only in the process of repatriation, but also in the providing of grants for major museums in each state and territory.[89] Australia's extensive commitment to the process of repatriation is demonstrated in its agreement to support the *UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression* and the *United Nations Declaration on the Rights of Indigenous Peoples.*[90]

Though it is practical to focus on the repatriation of Australian Indigenous human remains with known provenance, as they are more easily processed, there now, however, exist a concerning number of human remains in need of provenancing, and which, due to the lack of resources provided by both the Australian and the British governments, must stay *in situ* until an appropriate solution can be found. That being said, the establishment of the Advisory Committee for Indigenous Repatriation (ACIR) in March 2012 reinforced the continuous necessity for progress and collaboration surrounding such a contentious and culturally sensitive issue. This advisory committee aims at providing the Australian government with all of the information necessary to ensure that Indigenous cultural customs are being acknowledged and sustained throughout the process of repatriation or any associated deliberations.[91] More importantly, the committee serves to provide links between Australian Aboriginal and Torres Strait Islander communities, the Australian government, and Australian and international institutions.[92]

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[88] 'Return of Indigenous Cultural Property (RICP) Working Group', *Cultural Ministers Council*, June 2011, <http://mcm.arts.gov.au/working_groups/past_working_groups/Indigenous/return_of_Indigenous_cultural_property_rcip_working_group> [accessed 17/06/14].
[89] Ibid.
[90] Australian Government, 'Australian Government Policy on Indigenous Repatriation', *Department of Communications and the Arts*, Canberra, September 2016, p. 5.
[91] 'Advisory Committee for Indigenous Repatriation', *Australian Government Boards*, 2013, <http://www.ausgovboards.gov.au/boards/advisory-committee-Indigenous-repatriation> [accessed 16/06/14].
[92] Ibid.

As appointed by the Minister for the Arts, the advisory committee is composed of members who have not only specialist knowledge and experience of repatriation and Australian Indigenous heritage, but also a highly personal connection to the issue, with each member identifying as being of Australian Indigenous descent.[93] In having a specialised all-Indigenous committee, the members are fully aware of the cultural practices and values which are involved in the process of repatriation, and which need to be fully acknowledged and respected by both parties. The Minister for the Arts, Simon Crean, issued a public statement within the 2011 *Australian Government Policy on Indigenous Repatriation* which stressed that repatriation is 'a matter of justice and healing'.[94] In addition, both Peter Turnbull and Michael Pickering, longstanding activists in the support of Australian Indigenous repatriation, noted that it is their belief that, for some people, this move into cultural relativism appears to extend from irrational and unnecessary guilt, extending from the treatment endured by Australian Aboriginal and Torres Strait Islander peoples in Australia's colonial past.[95] The mere act of supporting the process of repatriation and initiating its continuation over many years can be interpreted as an example of guilt, and an attempt to rectify past inequalities through initiating a move towards the unification of Indigenous and non-Indigenous Australians. The underlying notion of 'white guilt' is evident throughout many Australian government acts and policies, with reconciliation continuously endorsed in its unequivocal desire for unity between Indigenous and non-Indigenous Australians.

The Australian government, in conjunction with the Australian Aboriginal and Torres Strait Islander Commission (ATSIC), has initiated various organisations, such as the ACIR and the IRP, which deal with the analysis and identification of Australian Indigenous human remains repatriated from international and national institutions. The ACIR stated its recognition of the repatriation issue as

[93] Ibid.
[94] Australian Government, 'Australian Government Policy on Indigenous Repatriation', *Department of Communications and the Arts*, Canberra, September 2016, p. 4.
[95] Turnbull, P., 'Introduction', (2010a), in Turnbull, P., Pickering, M., (2010), op. cit., p. 5.

'complex and sensitive'; however, it believes that it is fundamental to consult with Australian Indigenous people in order to move forward in a culturally sensitive manner which encompasses a range of diverse beliefs and aspirations.[96] Additionally, the ATSIC issued its own statement shortly after the publication of the report. The Chairman of ATSIC's Culture, Rights and Justice Board Committee, Commissioner Rodney Dillon, remarked in a statement entitled *UK Repatriation Report a Welcome Step – But Action Must Follow* that:

> ATSIC's bid to secure the return of remains of Aboriginal and Torres Strait Islander peoples held in British museums has moved forward with the release of a key report backing the repatriation of remains taken without consent. [97]

Dillon continues his praise of the UK's Working Group on Human Remains report, stating that 'the recommendations are a significant acknowledgement of the merit of our calls for the repatriation of remains held in institutional collections'.[98]

The Tasmanian Aboriginal Centre Inc. (TAC) is involved in ongoing efforts to seek the return of cultural material. Of particular note is the case of Truganini's necklace and bracelet, held by the Royal Albert Memorial Museum (RAMM), Exeter, wherein museum staff investigated the significance of the objects due to Truganini's profile as the last full-blooded member of her community, and, of their own initiative, made contact with the TAC.[99] Exeter City Council approved the return of the objects in 1995, and in 1997, they were collected by the TAC for their new home in the Tasmanian Museum and Art Gallery. The RAMM has been able to continue its relationship with the TAC on the basis of its proactive professionalism in this case.[100] While the repatriation of secret/sacred cultural material is enforced as an integral element within everyday museum practice for countries such as

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[96] Australian Government, 'Discussion Paper & Survey: A National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with No Known Community of Origin', *Department of Regional Australia, Local Government, Arts and Sport, Office for the Arts*, 2013, p. 3.
[97] 'The British Government's Working Group on Human Remains', *Desmond Griffin*, 2003, <http://desgriffin.com/Indigenous-intro/bgwghr>/> [accessed 12/06/14].
[98] Ibid.
[99] 'Policy Statement on Repatriation of Cultural Property', *Museums Association*, September 2006, <http://www.museumsassociation.org/policy/01092006-policy-statement-on-repatriation-of-cultural-property#.U6C6xfldWSo> [accessed 12/06/14].
[100] Ibid.

Australia, New Zealand, Canada and the USA, in the UK, however, museums are not bound by legislation to repatriate Indigenous cultural materials,[101] nor is repatriation always viewed favourably as a concept for consideration.

Moira Simpson highlights the importance of repatriating cultural material by drawing on Miriam Clavir's comparative study of aboriginal and non-aboriginal approaches to the conservation of First Nation cultural materials in Canada, which emphasises the importance that many First Nation communities place upon the use of cultural objects.[102] Therefore, the enactment of cultural activities, for which these objects were intended, reinforces the knowledge and rights associated with ceremonial objects and maintains their spiritual integrity.[103] Cultural preservation is therefore achieved in the form of cultural maintenance, or the perpetuation of beliefs, values and activities associated with these objects.[104] While cultural material presents a particular conundrum in the ethical discourse of restitution and repatriation, cultural recognition of the means in which the objects were acquired and the cultural sacredness they may possess for a community are ultimately questions which must be acknowledged by institutions when a claim is made. Institutions must therefore rely on their ethical standards in their deliberations.

Ultimately, the emphasis is on the preservation of the context and associated activities, not only the objects themselves, which requires the resocialisation of objects: their return to the place of origin wherein the intangible aspects of heritage provide meaning and the objects themselves may stimulate renewed activities of the intangible aspects of culture.[105] Furthermore, Simpson remarks that Indigenous people's voices and interests have contributed in recent years to a broader understanding of how heritage is defined, and its importance to the maintenance of cultural identity, as reflected in the content of a number of recent UNESCO conventions designed to promote recognition and protection of cultural

[101] 'Human Tissue Act 2004 – Chapter 30', *legislation.gov.uk*, 2004, <http://www.legislation.gov.uk/ukpga/2004/30> [accessed 17/01/14].
[102] Simpson, M. G., 'Museums and Restorative Justice: heritage, repatriation and cultural education', *Museum International*, No. 241–242, Vol. 16, No. 1–2, 2009, pp. 122–123.
[103] Ibid.
[104] Ibid.
[105] Ibid., p. 122.

diversity, intangible heritage, and the rights of Indigenous people.[106] Due to this, Simpson suggests that there has been a shift in contemporary museology practices from those 'based on ideas of heritage as evidence of the past – valued for its historical research potential and as the basis for a thriving heritage industry – to recognition of the contemporary value of heritage for living cultures'.[107] For some communities, the repatriation of ceremonial materials from museums may be an important part of this process, and linked to strategies to aid in the recovery from post-colonial trauma, and, as such, has the capacity to contribute to Indigenous health and well-being.[108] In more recent years, institutional acknowledgment of the significance of cultural materials held within museum collections has brought forth a positive change, with restitution reconceptualised as a positive, rather than negative, process.[109] O'Neill emphasises that museums should not view repatriation as something to 'evade' but as a 'welcome and intrinsic part of their role'.[110]

Australian museum policies for the care and conservation of Australian Indigenous human remains and cultural objects

Under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984,* the need for establishing adequate storage facilities was prompted, both for remains with no known provenance and for those appointed by their community for safekeeping. The National Museum of Australia (NMA) has played a fundamental role in the process of returning human remains and secret/sacred objects to Australia since its inception in 1980. Due to its date of establishment, the NMA does not have a nineteenth-century historical legacy of deliberate collecting of

[106] Ibid., pp. 121–122.
[107] Ibid.
[108] Ibid., p. 122.
[109] Besterman, T., (2014); Bienkowski, P., (2014); Curtis, N., (2014); Tythacott, L., Arvanitis, K., (2014).
[110] O'Neill, M., 'Repatriation and its Discontents: the Glasgow Experience', in *Who Owns Objects? The Ethics and Politics of Collecting Cultural* Artefacts*, Proceedings of the First St. Cross-All Souls Seminar Series and Workshop, October - December 2004*, Robson, E., Treadwell, L., Gosden, C., (eds.), Oxbow Books: Oxford, 2006, p. 126.

human remains and secret/sacred artefacts.[111] This means that, unlike other national museums within Australia and the UK, the institution does not need to compensate for any possible negative perceptions of the museum amongst its Indigenous clientele.[112] Nevertheless, as Manager of the Aboriginal and Torres Strait Islander Program at the NMA, Michael Pickering reinforced his views on displaying human remains, sensitive sacred objects, and controversial photographs:

> ...we [NMA] have to accept responsibility but we don't and won't display them. Access is restricted: basically, they are not open to researchers without community approval.[113]

As detailed in its *Australian Aboriginal and Torres Strait Islander Human Remains Policy* dating from April 2011, the NMA is not a repository for Australian Aboriginal and Torres Strait Islander human remains deposited under any other legislation. The museum is, however, under the published regulations of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, identified as a prescribed authority [as per Section 21 (1) (c)], for the purposes of the safekeeping of Australian Aboriginal and Torres Strait Islander human remains when the relevant community cannot be identified.[114]

As noted within its policy, the museum will not actively seek to collect Australian Aboriginal and Torres Strait Islander human remains; however, the museum will accept remains donated from other sources.[115] Due to the diminishing number of the Australian Indigenous population, and rural community groups present today in comparison to thirty or more years ago, repatriated remains that originate from

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[111] Pickering, M., Gordon, P., 'Repatriation: the end of the beginning', in *Understanding Museums: Indigenous people and museums*, Griffin, D., Paroissien, L., (eds.), National Museum of Australia: Canberra, 2011, p. 21.
[112] Ibid.
[112] 'Appendix 64: Memorandum submitted by the Australian Government, Culture, Media and Sport – Appendices to the Minutes of Evidence', *parliament.uk*, June 2000, <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmcumeds/371/371ap76.htm> [accessed 17/06/14].
[113] Ibid.
[114] National Museum of Australia, 'Aboriginal and Torres Strait Islander Human Remains Policy, POL-C-011', *National Museum of Australia*, Canberra, 19 April 2011, Ver. 2.2, p. 4.
[115] Ibid.

community groups which no longer exist or have any living members who practise traditional Australian Indigenous mortuary practices are forced to store their ancestral remains within the NMA until an appropriate solution can be achieved. Furthermore, on behalf of external agencies, the museum is occasionally engaged in managing the care and administration of Australian Aboriginal and Torres Strait Islander human remains; however, these remains are still the legal property of the external agency.[116] What is clearly detailed within the policy is that none of the Australian Aboriginal and Torres Strait Islander human remains held by the museum form part of the National Historical Collection at the NMA.[117] What is important to note is that in its temporary custodianship role the NMA has gone so far as to introduce two different human remains policies: one which focuses on Australian Indigenous human remains and another on non-Indigenous remains.[118] In addition, out of cultural respect and consideration, Australian Indigenous human remains are specifically separated from non-Indigenous human remains within the museum's collection.[119]

What is of particular interest is that the South Australian Museum's *Policy on Human Skeletal Remains Collection,* dating from June 1987, makes specific note of the need for Aboriginal insight and involvement when human remains are discovered. The policy implies that when human remains are found through archaeological fieldwork or alike, the museum will insist that researchers contact the relevant Aboriginal community for immediate discussions.[120] The museum would only agree to house human remains from such archaeological events at the expressed wish of both the relevant Aboriginal people and the researcher.[121] Furthermore, the policy suggests that only with full consultation with Indigenous communities can the museum then let the greater public be aware of the remains'

[116] Ibid.
[117] Ibid.
[118] National Museum of Australia, 'Non-Australian Indigenous Human Remains Policy, POL-G-024', *National Museum of Australia*, Canberra, 16 June 2009, Ver. 1.0.
[119] 'Return of Indigenous Cultural Property (RICP) Program National Principles'*, Australian Government,* p. 2, <http://arts.gov.au/sites/default/files/pdfs/ricp_principles.pdf> [accessed 15/06/14].
[120] South Australian Museum, 'Policy on Human Skeletal Remains Collection', *South Australian Museum Board*, Adelaide, June 1987, p. 6.
[121] Ibid.

existence, and convey to them the benefits of continuing scholarly research into them.[122] While it is general practice today to find such a clause within Australian museums' policies and legislation, in 1987 this was not always the case. The South Australian Museum's policy clearly highlights the importance of notifying Indigenous communities of the remains within their collection, detailing how they arrived there, how they are cared for by the museum, and the specific and general scientific benefits of scholarly research into the remains.[123] Moreover, the policy affirms that its aim is to produce joint plans with respect to opinions for the future on the part of the collection relevant to the community. With regard to access to Indigenous remains within its collection, the policy asserts that any research into parts of the collection can only be achieved following consultation with museum staff and the relevant Aboriginal groups.[124] This is specifically poignant because it gives Australian Indigenous communities a sense of purpose and authority in knowing that they are helping to care for their ancestors, while also reviving and regaining control of their heritage. By providing communities with the authority to make decisions regarding the treatment and outcome of their heritage and their people, a level of trust and kinship is built between the institutions and community groups. Furthermore, as Australian Aboriginal and Torres Strait Islander cultural beliefs and customs vary between communities, and because South Australian Museums have material from all over Australia within their collections, it is difficult to produce a simple blanket policy regarding the return of cultural material that will satisfy all.[125] Therefore, seeking policy input from those Aboriginal individuals and groups that have relationships with the collections is paramount.[126]

Museum Victoria's policy statement entitled *Repatriation of Aboriginal and Torres Strait Islander Cultural Property 2013* clearly expresses that it is the museum's intent and belief that repatriation plays a vital role in its ongoing relationship with Indigenous people, with its continuous endeavour being to foster these

[122] Ibid.
[123] Ibid.
[124] Ibid., pp. 6–7.
[125] Ibid., p. 7.
[126] Ibid.

relationships for mutual benefit.[127] To this end, Museum Victoria rests while committed to working collaboratively with Australian Indigenous people to ensure that the cultural materials housed within its collections are appropriately managed and cared for.[128] What is of particular interest is Museum Victoria's policy which highlights the various external documents, associated guidelines, and procedures which are used in its policy's administration. Additionally, the museum adopts the *Native Title Act 1993* definition of Traditional/Rightful Owners:

> Indigenous people entitled as of custom and tradition to determine appropriate control and management of their cultural heritage.[129]

Though the concept of rightful ownership seems simple, it is, however, one of the main contentious issues that museums face when considering repatriation with differing opinions expressed within institutions throughout the world.[130]

Various repatriation procedures and protocols employed in UK and Australian museums

When considering a claim and conducting the repatriation of human remains or cultural material, there are various procedures and protocols which UK museums and governing bodies have in place to ensure that the objects or remains in question, as well as the claimant and institution, are legally and ethically considered and approached.[131] As the present 'guardians' or custodians of the remains, museums have the main duty of care and responsibility to make decisions regarding the future of each case of human remains or each object claimed. This ultimately implies that the decision-making process of repatriation

[127] Museums Victoria, 'Museum Victoria Policy Statement: Repatriation of Aboriginal and Torres Strait Islander Cultural Property', *Museums Victoria*, Melbourne, 19 December 2013, p. 1.
[128] Ibid.
[129] Ibid., p. 3.
[130] Simpson, M. G., (2001); Fforde, C., et al., (2002); Institute of Ideas [Transcript], (2003); Lohman, J., Goodnow, K., (2006); Coleman, E. B., (2010); Jenkins, T., (2010); Turnbull, P., Pickering, M., (2010).
[131] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', *DCMS*, London, October 2005, p. 24.

is one-sided. However, it is hoped that, through time and with continuous cooperation and constructive dialogue between museums and claimant groups, the process will become more open and equal.[132]

According to the UK's 2005 Department for Culture, Media and Sport (DCMS) Guidance, once a repatriation request has been received, and particular remains are under consideration, consideration is given regarding the continuous appointment of the remains for research, teaching or display purposes, or if such uses should be suspended pending the resolution of the claim.[133] In most cases, Indigenous ancestral remains have been removed from public display for many years; however, scientific analysis of remains has persisted. Moreover, when processing a claim, the DCMS Guidance examines various considerations which it suggests museums within the UK should take into account and investigate. According to the DCMS Guidance, the identity of the claimant, or any intermediary or representative who is making the claim, is regarded as one of the most important considerations for any museum processing a repatriation claim.[134] Subsequently, when a sufficient outcome has been established, an investigation into the connection between the claimant and the deceased is conducted, and final acknowledgment of the basis of the claim is recognised.[135]

In most cases, sufficient evidence of the remains' identification must be supplied by the claimant, which may require the museum's assistance.[136] Moreover, the claimant is required to make known his or her wishes for the future of the remains, and any other information that the claimant might have regarding the possibility of other potential claimants.[137] The issue of competing claimants will be further discussed in the following chapter. Even though the remains repatriated will be returned in most cases to their community for traditional burial, there are some remains of great historical significance which, though perhaps unwillingly

[132] Ibid.
[133] Ibid., p. 25.
[134] Ibid.
[135] Ibid.
[136] Ibid.
[137] Ibid.

repatriated, may be stored within a place of safekeeping, rather than interred, due to their historical or scientific value. That being said, it is ultimately the claimant and community's decision as to what will happen to the ancestor's remains once they have left the museum, which must be respected.

As repatriation is an expensive and time-consuming process, it is the museum's responsibility to outline the guidelines of the process, within the public domain and to the claimant, as soon as a request is initiated.[138] It is detailed within both UK and Australian policies and Guidance reports that the cost of processing a repatriation request is, for the most part, covered by the museum in the form of grants provided by the Australian government.[139] This includes the cost associated with the reburial of the remains.[140] As outlined within the Australian *Return of Indigenous Cultural Property (RICP) Program National Principles,* the programme's aim is to return all Australian Indigenous ancestral remains and secret/sacred objects where possible.[141] It is specified that repatriation can only occur when remains and objects have been adequately provenanced and the communities are prepared to receive their ancestral remains and secret/sacred objects.[142]
As provenance is an integral process in fulfilling repatriation, it may be necessary for museums to employ a biological anthropologist or other consultants to assist in the provenancing of ancestral remains.[143] That being said, provenancing projects should not be implemented without consultation with museums' own Indigenous Advisory Committee or Reference Group.[144] Moreover, invasive scientific testing on Australian Indigenous human remains cannot be undertaken unless community permission is granted; however, the need to employ scientists and analysts to investigate the provenance of remains does ultimately add an extra

[138] Ibid., p. 24.
[139] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', (2005, p. 24); 'Return of Indigenous Cultural Property (RICP) Program National Principles, *Australian Government*, p. 3, <http://arts.gov.au/sites/default/files/pdfs/ricp_principles.pdf> [accessed 15/06/14]; Australian Government, 'Australian Government Policy on Indigenous Repatriation', *Department of Communications and the Arts*, Canberra, August 2011, p. 8.
[140] Return of Indigenous Cultural Property (RICP) Program National Principles, *Australian Government*, p. 3, <http://arts.gov.au/sites/default/files/pdfs/ricp_principles.pdf> [accessed 15/06/14].
[141] Ibid., p. 1.
[142] Ibid.
[143] Ibid.
[144] Ibid.

cost and financial responsibility on museums or communities which cannot always be provided. More importantly for unprovenanced Australian Indigenous human remains, community permission cannot be provided, therefore prohibiting the ability for invasive scientific testing to be conducted. The significance of establishing provenance in the repatriation of Australian Indigenous human remains will be discussed in detail in the next chapter.

As many repatriation policies and Guidance reports emphasise, it is essential that museums develop partnerships with Indigenous communities, ensuring that they participate fully in the process of repatriation. Where the relevant community is unknown to the museum, advice should be sought from influential Indigenous bodies, such as community Elders, the local, regional or state land council or Indigenous community organisations.[145] Once the claim has been acknowledged by the museum, communities are informed of the repatriation process. Communities or mediators will determine whether they want their ancestral remains and secret/sacred objects returned and how the return will be managed.[146] For example, community representatives may wish to travel to museums to pack and transport their ancestral remains and secret/sacred objects back to their community. They may wish to hold community meetings to discuss the return process, or may ask museums to hold their ancestral remains and secret/sacred objects until they have decided how and when they can take full custody of them.[147] In all cases, the RICP suggests that it is essential for museums to maintain dialogue with communities, with communities' wishes adhered to and promptly enacted upon where possible.[148] Continuing, the RICP agreed that ancestral remains and secret/sacred objects would be returned unconditionally; however, it reiterated that it is important that museums offer communities support in the care of returned material.[149] Specifically, museums should offer advice or provide training in areas such as conservation, preservation and

[145] Return of Indigenous Cultural Property (RICP) Program National Principles, *Australian Government*, p. 1, <http://arts.gov.au/sites/default/files/pdfs/ricp_principles.pdf> [accessed 15/06/14].
[146] Ibid.
[147] Return of Indigenous Cultural Property (RICP) Program National Principles, *Australian Government*, pp. 1–2, <http://arts.gov.au/sites/default/files/pdfs/ricp_principles.pdf> [accessed 15/06/14].
[148] Ibid., p. 5.
[149] Ibid.

collection management where possible.[150] This suggestion is a positive move in providing a compromise, which those opposed to repatriation are desperately seeking, as it allows Indigenous people to properly care for their ancestral remains to museum standards, while remaining within their own community. Though promising, issues of funding and resources are inevitable.

What is of particular interest, and which is illustrated within the RICP's principles: numbers 12 and 13, is that unprovenanced remains and secret/sacred objects, when the document was written [2005], were not seen as a priority.[151] They further add that any provenancing programme that may be developed needs to be discussed and approved by the museum's own Indigenous Advisory Committee. They continue, highlighting:

> Where an Indigenous Advisory Committee does not exist or cannot provide the necessary advice on unprovenanced material (particularly secret/sacred objects), then museums should consult with other Indigenous organisations and individuals, such as land councils, local Indigenous community organisations, heritage officers and Elders.[152]

Nevertheless, if individuals can demonstrate a direct and close genealogical link to the human remains, their wishes to repatriate will generally be a prominent factor.[153] Even so, consideration should be given to whether the claimant or claiming community holds the greatest affinity to the human remains, and if not, whether there is any risk of harm to others in this category if the request being made is granted.[154] Nevertheless, museums are lenient towards exceptional cases wherein remains would not be returned to genealogical descendants.[155] That being said, most remains would be returned to genealogical descendants, or consent obtained from living descendants for any further use by a museum.[156]

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[150] Ibid.
[151] Ibid., p. 3.
[152] Ibid.
[153] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', *DCMS*, London, October 2005, p. 26.
[154] Ibid.
[155] Ibid.
[156] Ibid.

In close observation of the repatriation and human remains policies previously mentioned in this chapter, it is evident that almost all of the individual policies from institutions in the UK and Australia reiterate the uniqueness of each repatriation case. Moreover, it is evident that the initiation of the repatriation process in most cases is only activated once a claim from a requesting community, or agency on its behalf, is instigated. Though it is unusual for UK museums to instigate the repatriation process without an Indigenous claim being brought forth, it is clear that for many UK museums and for almost all Australian museums, building a strong rapport between the institution and claimant is increasingly becoming highly beneficial for both parties, as it establishes trust and sentiments of goodwill. In an interview with Neil Curtis,[157] Head of Museums from the University of Aberdeen, he reinforced the importance of establishing a relationship with the claimant, drawing on his own experiences throughout the repatriation process. Curtis highlights that the relationship which the University of Aberdeen and Te Papa Museum have maintained through the repatriation of their collection of *Toi moko*[158] (nine tattooed Maori heads) has benefitted both parties involved.[159] Not only were Te Papa Museum and the community pleased to have the remains returned, but the university also felt rewarded in knowing that they had done the right thing. Tony Eccles, Curator of Ethnography at the Royal Albert Memorial Museum, also reiterated the importance of building a relationship with Indigenous communities throughout the process of repatriation. Eccles particularly highlights, within a questionnaire (see Appendix 2), that when repatriating remains to Australia, they worked amicably with not only the claiming Indigenous community, but also the Australian High Commission in London.

Jim Kennedy, Director of the Oxford University Museum of Natural History, drew on the mutual benefit that communication provided in deliberating and

[157] Neil Curtis, Interview, Via Skype, 15 May 2014.
[158] *Toi moko:* a traditional Maori term applied to describe tattooed and preserved Maori heads.
[159] Neil Curtis, Interview, Via Skype, 15 May 2014.

conducting the second repatriation of Australian Indigenous ancestral remains from the Oxford University Museum of Natural History, stating:

> The University's procedure for repatriation has been used. It has enabled us to balance our duty of care for these items, the requirements of science and the sensitivities and beliefs of the claimant community. It has been a pleasure working with the Australian Government and the Ngarrindjeri Heritage Committee, who have provided us with extensive information and background material that enabled us to reach the decision to repatriate the material.[160]

Moreover, in response to a questionnaire (see Appendix 4), Lynne Heidi Stumpe, on behalf of National Museums Liverpool (NML), highlighted the multiple benefits that one gains in developing a relationship with Indigenous communities, specifically in the repatriation of Maori and Moriori remains to New Zealand in 2007 and Aboriginal skull remains to the Ngarrindjeri people and the Australian government in 2009, as part of a repatriation tour for unprovenanced Australian human remains. What is of particular note in the repatriation of the initially presumed Aboriginal skull is the acknowledgment of conducting non-invasive methods of provenancing, such as examining archival documentation and similar sources, before an alternative method is applied. Within this particular case, a researcher from the Museum of London Centre for Human Bioarchaeology was asked to examine the skull in detail, and the results were sent to Richard Wright at the University of Sydney for analysis. From collating the information from the researcher's assessment of the skull, Wright concluded that the skull was of mixed Australian and European ancestry. In acknowledging Wright's concluding examination, NML approved and initiated the repatriation process.

Additionally, Stumpe highlights the need for the development of a more culturally appropriate method of care for collections which can be initiated through community interaction during the repatriation process,[161] which museums can

[160] 'Oxford University to return remains of the Ngarrindjeri people to Australia', *University of Oxford*, 15 December 2006, <http://www.ox.ac.uk/media/news_releases_for_journalists/081215.html> [accessed 22/06/14].

[161] See Appendix 4.

subsequently consider and adopt in the representation and management of not only human remains but also cultural material within their collections.

From the twenty questionnaires sent out to various museums and cultural institutions throughout the UK and Australia, only seven were returned to me (Appendices 2–8). Nevertheless, it is evident, through examining individual institutional repatriation policies, that even though conducting repatriations on ethical grounds and in the demonstration of cultural respect serves to decolonise museums and their collections, the ultimate benefit of the repatriation process which has been acknowledged by museums is the gained rapport with both the source community and the Australian High Commission within the UK. That being said, these developed relationships are only maintained through active discourse and continuous partnership, a feat perhaps difficult to sustain due to logistical difficulties and location.

Conclusion

When comparing the various museum policies relating to human remains and repatriation within the UK and Australia, it is evident that cultural institutions within both countries regard human remains with the utmost respect and importance, ensuring that proper care is maintained. That being said, it is evident that within the UK the concept of repatriating human remains is regarded as a voluntary act, with institutions retaining remains until an authentic claim is made from an Indigenous community. In comparison, within Australian museums the repatriation of not only Indigenous ancestral remains but also secret/sacred cultural material is a process which is readily enforced and supported by the Australian government. Though there is no legislation which compels Australian institutions to forcibly surrender and repatriate all Australian Aboriginal and Torres Strait Islander ancestral remains or secret/sacred material within their collections,[162] their inclination to actively do so, however, is perhaps due to the

[162] Pickering, M., (2008); However, it should be noted that individual states such as Queensland and Victoria have implemented their own regulatory legislation which actively encourages the continued

continuous outcry of Indigenous communities, and their moral obligation as national institutions and representative bodies for all Australians.[163] Since the 1990s, UK museums and cultural institutions have made progress in the repatriation of hundreds of Australian Aboriginal and Torres Strait Islander human remains from their collections,[164] and under special circumstances, cultural objects. With the development of various policies, acts and Guidance reports, UK museums and cultural institutions have demonstrated their support for Indigenous communities and have sought to acknowledge and expand their cultural understanding. In addition, through the act of repatriation, institutions and the country itself are acknowledging that the remains and cultural material were wrongfully removed from its Indigenous people and land. Consequently, they hope to rectify this, in a moral and ethical manner, by relinquishing control and authority, to a certain degree, back to the Australian Indigenous people who seek to reclaim their ancestors and heritage.

While there are still those who disagree with the process of repatriation due to the consequential educational and scientific loss, nevertheless, the greater benefits for both the communities involved and the cultural institutions themselves are emphasised within UK and Australian policies to outweigh the benefits of retention. Even so, it is undeniable that human remains have played a vital role in understanding and analysing the evolution of *Homo sapiens.* The role that these Indigenous remains have played within institutions, and their future scientific value, in most instances, has been exhausted by current technological and scientific methods.

Moreover, it is greatly emphasised within a significant number of UK and Australian human remains and repatriation policies and Guidance reports that

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repatriation of Indigenous ancestral remains (Feikert, C., 'Repatriation of Historic Human Remains: Australia', *Library of Congress*, July 2009, <https://www.loc.gov/law/help/repatriation-human-remains/australia.php> [accessed 10/12/16]).

[163] Pickering, M., 'Lost in Translation', *Borderlands e-journal*, Vol. 7, No. 2, 2008.

[164] Scobie, C., 'The Long Road Home', *The Guardian*, 28 June 2009, <https://www.theguardian.com/world/2009/jun/28/aborigines-reclaim-ancestors-remains> [accessed 01/04/17].

contacting and liaising with Indigenous communities, specifically those who are claiming or are descendants of the remains in question, is paramount and fundamental in maintaining a museum's relationship with Indigenous communities and in ethically conducting repatriation. Although it is difficult for UK museums to maintain a relationship with Indigenous communities once a repatriation process has been finalised, nevertheless, the inclusion of Indigenous community members or Elders within the process of repatriation promotes a sense of well-being and demonstrates museums' continuous support for the repatriation of a community's cultural materials and ancestors. Additionally, through the process of repatriation, museums are demonstrating their acceptance of the Australian Indigenous culture and recognising past inequalities and injustices.

There is a greater sense of duty to repatriate remains within Australian institutions, which is not necessarily implied within UK policies. This can be ultimately attributed to the Australian government's ultimate desire for reconciliation between Indigenous and non-Indigenous Australians, and can provide Indigenous communities with their own cultural autonomy, which was previously negated. Even so, in recent years, funding for the continuation of repatriation, within both the UK and Australia, has been limited. This has been particularly due to the turbulence of the Australian government over the last fifteen years. Consequently, museum resources have not been prioritised, resulting in unprovenanced remains confined in UK museums until repatriation is initiated. Nevertheless, emphasis on ensuring that the process of repatriation is equally distributed between cultural institutions and Indigenous community groups, a greater understanding of and insight into varying Indigenous heritage, both tangible and intangible, will be invaluable for museums and the greater public.

Though there are still various aspects within repatriation policies, acts and Guidance reports which have sparked controversy in the past, all of these various policy documents stipulate that they are subject to change and review. This ultimately ensures that, over time, they will adapt to the varying legal frameworks

of institutions and shifts in general opinions and attitudes, taking into account the development of new techniques, cultural understanding, and ethical information.

While policies are an integral element in the regulating of museums and processing of human remains for repatriation, the lack of detailed frameworks specifying the appropriate methods through which to approach unprovenanced Indigenous human remains within UK and Australian museum collections and human remains policies has caused a standstill in the repatriation of these remains. Therefore, as provenance is detailed within repatriation policies as an intrinsic element in the repatriation process, museums should work to instigate the repatriation process with policies which recognise the limitations of repatriating unprovenanced Australian Indigenous human remains, or look to non-invasive methods of provenancing unprovenanced human remains in order to provide the possibility for their return to 'Country'.

Chapter Three:

The importance of establishing provenance

Introduction

The process of repatriation is both lengthy and bureaucratic, encompassing various elements in its administration. However, within the repatriation of Australian Indigenous ancestral remains, it is the establishment of provenance which is fundamental and for some institutions, predominantly within the UK, a key factor in the deliberation so as to endorse a repatriation request, as discussed in the previous chapter. While the provenance of Australian Indigenous ancestral remains cannot always be simply established, it is important for cultural institutions, specifically those outside of Australia, to attempt to understand the significant cultural and spiritual bond that Australian Indigenous people hold towards the land which they call home. This includes the cultural obligation that Australian Indigenous communities express as being the main motive for their attempts to reclaim authority and control of their heritage and ancestors. This chapter will therefore not only serve to emphasise the importance of provenance within the repatriation process, but also specifically highlight why unprovenanced Australian Indigenous ancestral remains are posing such a dilemma within museums and amongst Australian Indigenous communities. More importantly, the various methods used, both past and present, to determine and analyse the provenance of human remains within museum collections will be examined, highlighting how these methods can be applied to the provenancing, or in some cases re-provenancing, of Australian Indigenous ancestral remains awaiting repatriation.

Even though burial customs and practices differ between Aboriginal communities, their spiritual beliefs surrounding death, 'Dreaming' and the 'Dreamtime' are similar and integral to their way of life and identity.[1] Even though Dreaming stories differ between regions and communities throughout Australia, with traditional ceremonial practices conducted in varying ways and deceased community members presided over through differing traditional mortuary practices,[2] the continuity of life after death is ever present within Aboriginal cultural beliefs.[3] While many Australian Aboriginal people are united in their expressed spiritual connection to the land, it is important to examine the traditional mortuary practices of different Australian Indigenous communities from various regions in Australia, as they provide vital information as to the method and manner in which ancestral remains were, and perhaps should be, laid to rest. Varying mortuary practices are key elements when attempting to determine provenance, especially when relying on pre-existing archival records and documentation.

Since the 1980s, Australian Aboriginal and Torres Strait Islander peoples have remained consistent when voicing their individual cultural needs for the return and burial of ancestral remains within their originating communities; however, it seems that some scholarly and museum resistance, on a global scale, still persists. Nevertheless, the slow but continuous development of the repatriation process, and support from many cultural institutions within the UK and Australia, has ensured the safe return and subsequent interment of thirteen hundred ancestral remains.[4] That being said, there are still an estimated ten thousand Australian Indigenous ancestral remains housed within Australian institutions, and an estimated five hundred within British museums, that are still awaiting repatriation.[5]

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[1] Glaskin, K., et al., (2008); Galván, J. A., (2014).
[2] Davidson, D. S., (1949); Meehan, B., (1971); Berndt, R. M., (1974); Berndt, R. M., Berndt, C. H., (1998, pp. 453–486).
[3] Berndt, R. M., (1974); Berndt, R. M., Berndt, C. H., (1998, pp. 453–-486).
[4] Australian Government, 'Closing the Gap: Prime Minister's Report 2017', *Department of the Prime Minister and Cabinet*, Canberra, 2017, p. 16.
[5] Elliott, T., 'Spirits cannot rest so far from home', *The Sydney Morning Herald*, 13 March 2010, <http://www.smh.com.au/national/spirits-cannot-rest-so-far-from-home-20100312-q45t.html> [accessed 08/08/17].

Even though archival records and past documentation detailing scientific evaluations have been used to ease the need for present-day institutions and museums to conduct additional scientific analyses and provenance testing, the authenticity of these past reports has been questioned, with additional testing and provenancing projects believed to be a necessity so as to ensure that the limited information already known, such as the collector, has been fully investigated in order for the exact origin of the ancestral remains to be determined.[6] As examined in the previous chapter, Indigenous community cooperation and consultation, within both Australian and UK museums, are viewed as highly beneficial, specifically when examining the provenance of the ancestral remains, to claimants. For some institutions, community consultation serves as an integral and illuminating component when determining the origins of ancestral remains within their collections. Even so, there still remain a vast number of Australian Indigenous ancestral remains which require additional investigation and intervention due to their lack of determined provenance. There are differing reasons as to why ancestral remains lack any known provenance; however, through individual scientific techniques, as well as archival research and community outreach programmes, varying degrees of provenance may be uncovered. Therefore, in detailing the advantages and disadvantages of the many provenancing techniques which have been applied, in addition to examining cases which have contributed to the debate, this chapter will serve to shed light on the future of scientific testing on Australian Indigenous ancestral remains, and the contributions that it may provide to unprovenanced human remains within Australian and UK museum collections.

[6] Hanchant, D., 'Practicalities in the return of remains: the importance of provenance and the question of unprovenanced remains', in Fforde, C., et al., (2002), op. cit., pp. 312–316.

The Australian Indigenous cultural importance of provenance in the repatriation process

One of the main driving forces which fuels Australian Indigenous communities to continue their fight for the repatriation of ancestral remains from cultural institutions on a global scale is their cultural responsibility as living descendants to ensure the safety and return of ancestors and their spirits to 'Country'. This ultimately ensures that ancestral spirits are provided with the appropriate traditional burial customs of their community, thereby guaranteeing that ancestors join their family within the spirit world and are finally at peace. A key feature of upholding peace in the Aboriginal spiritual world is to safeguard the maintenance and preservation of their land, an obligation which is arguably rooted in their cultural heritage and sense of identity.[7] The central component of Australian Aboriginal cosmology and epistemology, which is found throughout Australia and its varying regions, is emphasised by Hume to be Dreaming and its spiritual connection between human beings, land, and all that inhabit it.[8] While the ancestors traversed the land, creating all that is seen in the natural environment, Hume highlights their ability to transform and change in physical appearance, taking on the forms of animals or sea creatures, becoming 'prototypes of existing species', and leaving traces of their spiritual and sacred essence on the land in certain sacred locations.[9] This sacred essence of the Dreaming Ancestral Beings is suggested by Hume to also be found within all humans, allowing them to gain knowledge in respect of their individual spiritual identity and 'interconnectedness' with a specific geographical location or community through the guidance of initiated Elders.[10]

[7] Rose, D. B., (1996); Lambert-Pennington, A. K., (2007); Amnesty International, 'The Lands Hold Us: Aboriginal Peoples' Right to Traditional Homelands in the Northern Territory', (2011, p. 14).
[8] (Hume, L., 2002, p. 24); (Amnesty International, 2011).
[9] Ibid., pp. 24–-25.
[10] Ibid., p. 25.

For many Australian Indigenous people the land is traditionally referred to as their creator and 'Mother', providing food and shelter, with the Indigenous people acting as mere custodians of the land.[11]

> We don't own the land, the land owns us. The land is my Mother, my Mother is the land. Land is the starting point to where it all began. It's like picking up a piece of dirt and saying this is where I started and this is where I'll go. The land is our food, our culture, our spirit and identity.[12]

The Dreaming is a living lifeforce which continually sustains and energises the natural environment and human beings, permeating everything.[13] While Indigenous Australian community members are connected through kinship ties, Hume emphasises that all living people are interconnected metaphysically, geographically, and to all other beings, places and events in the Dreaming.[14] Berndt and Berndt reiterate that while Indigenous communities instil a sense of 'belonging' to or 'stewardship' of the land as opposed to 'ownership', it is through the Dreaming that Aboriginal community members are ascribed land-possession.[15] Hume remarks that 'the relationship between a 'Country' and its people is one of reciprocal responsibility'.[16] Referring to Ursual McConnel's fieldwork conducted in 1927 in the Cape York Peninsula, North Queensland, Hume highlights that at various sites located within Munkan territory the power of the ancestors can emanate through objects and humans, transferring temporarily their power to the host.[17] Similarly, Hume examines the Western Desert Pitjantjatjara women in the Musgrave Ranges who aid ancestral spirits re-enter the ground through the use of digging sticks placed upright in the soil, thus

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[11] Korff, J., 'What is Aboriginal spirituality?', *Creative Spirits*, February 2015, <http://www.creativespirits.info/aboriginalculture/spirituality/what-is-aboriginal-spirituality#axzz42SmtaU9n> [accessed 18/02/16].
[12] Knight, S., 'Our Land Our Life', card, *Aboriginal and Torres Strait Islander Commission*, Canberra, 1996.
[13] Hume, L., *Ancestral Power: Dreaming, Consciousness and Aboriginal Australians*, Melbourne University Press: Australia, 2002, p. 70.
[14] Ibid., p.27.
[15] Berndt, R. M., Berndt, C. H., *The World of the First Australians: Aboriginal Traditional Life: Past and Present*, Aboriginal Studies Press: Canberra, 1988, p. 140.
[16] Hume, L., *Ancestral Power: Dreaming, Consciousness and Aboriginal Australians*, Melbourne University Press: Australia, 2002, p. 27.
[17] Ibid., p. 72.

ensuring the ancestor is free to traverse the land.[18] This act attests to their cultural responsibility of reciprocity between ancestors who reside within the landscape. Additionally, the spirit of an individual, referred to as *kurunpa/kurrunpa* by the Pitjantjatjara people of Central Australia, serves to reinforce the interconnectedness of community members and their ancestors.[19] This 'life force' which enters an individual at birth and grows throughout their life evolving through the individual's religious experiences, their following of community Law (Dreaming) and their constant protection of the land. This demonstrates not only the sanctity and power of ancestral Beings, but also the transference of this power through the land which then emanates through living beings.[20]

Therefore, in denying Australian Indigenous access to their land it is as though a part of their psyche and body is being ripped away.[21]

> Indigenous law holds that the deceased will not enjoy spiritual rest until they are returned to their ancestral home and given the last rites in accordance with traditions. For this reason, Indigenous people feel a deep responsibility to their ancestors to respect their remains and to repatriate them, if necessary, to their rightful burial grounds. (Aboriginal and Torres Strait Islander Social Justice Commissioner, quotes in Janke 1998)[22]

When Australian Indigenous people die, their physical bodies are destroyed; however, their spirits are released to join their ancestors within their environment. Living Aboriginal descendants believe that their ancestors are ever present within their natural surroundings and that, through traditional song, dance and art, they are connected.[23] Consequently, it can be suggested that for the Australian Indigenous people, their spirituality and ancestors are intertwined

[18] Ibid.
[19] Ibid., p. 75.
[20] Ibid.
[21] 'Our Generation', a documentary film, Director: Sinem Saban, Producer: Damien Curtis, ATOM, *Australian Government*, 2 September 2010, [on DVD].
[22] Fforde, C., *Collecting the Dead: Archaeology and the Reburial Issue*, Gerald Duckworth & Co. Ltd.: London, 2004, p. 94.
[23] 'Our Generation', a documentary film, Director: Sinem Saban, Producer: Damien Curtis, ATOM, Australian Government, 2 September 2010, [on DVD].

within their identity and sense of Being, a concept which differs vastly from Western beliefs.

> In white society, a person's home is a structure made of bricks or timber, but to our people our home was the land that we hunted and gathered on and held ceremonies and gatherings. (Nala Mansell-McKenna, Youth Worker, Tasmanian Aboriginal Centre)[24]

Within Western society, the notion of 'home' can be suggested to be ever changing, with the bond between immediate family members solidifying the concept, rather than a specific location. Due to this, it is perhaps perplexing for non-Indigenous people to comprehend the intense cultural obligation that many Indigenous Australians have towards their land, and kinship towards deceased community members whom they have never encountered or who are often hundreds of years old. This contrast reinforces the differences in history, culture, experience and identity between Indigenous and non-Indigenous people on a global scale. These differences have produced an extraordinarily complex political culture which, in general, is poorly understood by many non-Aboriginal people.[25] While Maddison primarily focuses on Australian Aboriginal people, she notes that in negotiating these complexities some Aboriginal people have expressed a resourcefulness and persistence in their struggle to articulate a collective identity.[26] This is represented within the greater Australian public by means of equality, integrity and recognition, as well as by political means and agendas,[27] in order to ensure their continuous cultural recognition and survival.[28] By uniting under one collective name in their fight for cultural recognition and autonomy, the Australian Indigenous people endeavour to make a prominent and forceful stand against societal injustice and inequality previously endured, ensuring that their collective

[24] Korff, J., 'Meaning of land to Aboriginal people', *Creative Spirits*, February 2015, <http://www.creativespirits.info/aboriginalculture/land/meaning-of-land-to-aboriginal-people#axzz42SmtaU9n> [accessed 18/02/16].
[25] Maddison, S., op. cit., p. xxviii.
[26] Ibid.
[27] Such as: National Indigenous Reform Agreement (Closing the Gap), The National Indigenous Reform Agreement 2016 and the proposed Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012.
[28] Maddison, S., op. cit., p. xxvii.

'voice' is heard on issues of land rights, inequality, cultural preservation and the repatriation and restitution of ancestral remains and cultural material. While there are benefits for uniting as one collective 'voice' against the common experience of previous oppression, their efforts inadvertently served to reinforce a pan-Aboriginal identity which was and still is recognised and accepted by Europeans according to Western societal standards, which ultimately fail to fully recognise Indigenous Australian diversity. Yamanouchi stresses that at the policy level, the definition of Aboriginality during the 1970s to the late 1990s shifted from one based on the concept of race, to one based on self-identification and community acceptance in order to include urban Aboriginal people.[29] The implementation of Aboriginality in organisations which deal with Aboriginal issues is reaffirmed by Yamanouchi, as these designated organisations are recognised as government agencies and as such carry the government notion of 'homogenising Aboriginality'.[30] Beckett similarly draws attention to the confusion of the notion of pan-Aboriginality during the late 1980s and its subsequent inclusion within written government policy and administration surrounding the concept of Aboriginality and claims of identity.[31]

While the application of a pan-Aboriginal identity or assumption of Indigenous relatedness within governmental policy may be considered ethically inappropriate and culturally inconsiderate, within the last fifteen years governmental and institutional recognition of Australian Indigenous cultural diversity within policies and governmental legislation has been made, with ethical procedures implementing the need for cultural consultations and cooperation with diverse Indigenous communities in order to ensure the vast majority of Aboriginal community opinions are being recognised. This however is not to say that generalisations relating to Indigenous cultural identity are no longer present. Within many of the museum repatriation policies from the UK and Australia, a case-by-case approach is applied in order to provide the possibility for diverse

[29] Yamanouchi, Y., 'Kinship, Organisations and 'wannabes': Aboriginal Identity Negotiation in South-western Sydney', Osaka University of Economics and Law, *Oceania,* Vol. 80, 2010, p. 217.
[30] Ibid., p. 218.
[31] Beckett, J., 'Introduction', in Beckett, J., (ed.), *Past and Present: The Construction of Aboriginality*, Aboriginal Studies Press: Canberra, 1988, pp. 1–10.

community beliefs and needs to be considered and recognised during the deliberation of cultural affinity to claimed ancestors of secret/sacred cultural material. However, while governed by ethical procedures and standards, as mentioned above these institutions are still recognised as government organisations with their own procedural standards and definitions to which they must comply.

Although continuous appeals to the Australian government have been made since the 1970s, Maddison remarks that various Australian Indigenous communities, specifically those within remote locations, have kept to themselves, often deliberately limiting the sharing of information regarding their community with non-Aboriginal people as a means of minimising non-Aboriginal control over their lives.[32] This conscious decision, however, may be a contributing factor to the lack of knowledge and understanding of Australian Aboriginal and Torres Strait Islander peoples and their cultures, or the ascription of a pan-Aboriginal identity which neglects to recognise the differing needs of remote Aboriginal communities in contrast to those present within rural or urbanised Australian society. In addition, this suggested reservation of particular communities about integrating into modern Australian society may serve to inhibit the ability of museums to fully provenance remains with limited information or to coordinate interaction and support with communities throughout the repatriation handover process and reburial.

The Australian government could take the easier path by installing all repatriated unprovenanced Australian Indigenous remains within the NMA on a permanent basis, with no intention to conduct any additional provenancing investigations or testing. That would, however, be detrimental to the government's ultimate goal of reconciliation, and would also prove counterproductive to the resources and hours spent negotiating with international institutions for their return. Establishing provenance is therefore vital for both Indigenous and non-Australian Indigenous people alike, with additional information helping to map out the

[32] Maddison, S., op. cit., p. xxvii.

sociodemographic factors of past Australian Indigenous communities, in addition to the study of their environmental impacts and diseases. Consequently, the establishment of a known community or geographical locality is essential for Australian Indigenous communities, as a wrong conclusion could prove detrimental to the living community members as well as ancestral remains wrongly interred, resulting in the disruption of the spirit world. This fear and danger of misidentification is said to be perceived as a greater misgiving than not establishing the identity of ancestral remains at all.[33]

In addition to the integrity of ancestral remains, Australian Indigenous concerns also centre on the maintenance of the Aboriginal domain, including the cultural material of sacred sites and rock art, the health of the environment, and the less tangible aspects of people's responsibility to look after their 'Country'.[34] Guse reinforces that removal of the deceased from the Aboriginal 'kinship system' destroys all of the important connections that the individual had within that society and to the land.[35] Furthermore, he suggests that the reintroduction of Australian Indigenous ancestral human remains 'in a different spatial and temporal context' can consequently create a measure of uncertainty.[36] This uncertainty arises from the inability of an Aboriginal group to properly place the deceased within the standard social framework of Aboriginal society.[37] Guse highlights that this ultimately creates problems when making decisions regarding the appropriate actions to be made with respect to repatriating ancestral remains.[38] With regard to communities within Northern Australia, Guse provides a different analysis, highlighting that a name, or 'skin name',[39] allows Australian

[33] The Royal College of Surgeons of England, 'Care of Historic Human Remains: A Consultation of the Report of the Working Group on Human Remains – joint response from the Royal College of Surgeons of England and the Board of Trustees of the Hunterian College', *The Royal College of Surgeons of England*, Professional Standards and Regulations, October 2004, p. 3.
[34] Guse, D., 'Chapter 4: Social Complexities, Repatriation, and the Nature of Indigenous Ancestral Skeletal Remains in Northern Australia', in *Crossing Cultures: Art Politics and Identity*, Kleinert, S., (ed.), Charles Darwin University Press, 2006, pp. 6–7.
[35] Ibid.
[36] Ibid.
[37] Ibid.
[38] Ibid.
[39] Aspects of this system of social organisation differ between regions. This is seen in the 'skin system', a method of subdividing society into named categories which are related to one another through the kinship system. A moiety system (division into two groups: 'sun side' and 'shade side') exists

Aboriginal people to place the deceased in a 'standardising kinship framework' by which decisions regarding the ancestral remains can be made.[40] Therefore, it is believed that the 'skin name'[41] far outweighs the location or place in terms of importance to most Aboriginal people in the Northern Territory. In comparison, the non-Indigenous Western view places prominence on the establishment of provenance as an important and defining factor to establish when attempting to repatriate ancestral remains.[42] Subsequently, due to these issues, the repatriation process is impeded.[43] Nevertheless, there are still many Indigenous communities throughout Australia who require the assurance that the returning remains are provenanced accordingly and proven to be members of their kin.

Guse continues, acknowledging that the discourse surrounding the repatriation of ancestral remains relies heavily on the issue of an important residual spiritual element present in the remains, emphasising the religious over the ethical and legal factors.[44] Pickering highlights that 'putting the spirits to rest'[45] is a major motivator for many Aboriginal people, principally in cases wherein the deceased individuals were never provided with culturally appropriate mortuary ceremonies — such is the case for victims of massacres, institutionalisation, and all forms of unethical removal.[46] Pickering reinforces that this is a complex issue. For some Indigenous societies, there are often common themes evident in which the spiritual and physical separation of the body is facilitated through initial

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throughout the region. Most language groups also use a section or subsection system with four to eight 'skin names'. The individual gains a 'skin name' upon birth based on the skin names of his or her parents so as to indicate the section/subsection to which he/she belongs ['Kinship and Skin Names', *Central Land Council*, <http://www.clc.org.au/articles/info/aboriginal-kinship> [accessed 01/03/16]].

[40] Guse, D., op. cit., pp. 6–7.

[41] The third level of kinship is the skin name. Similar to a surname, a skin name indicates a person's bloodline. It also conveys information regarding how generations are linked and how they should interact. Unlike surnames, husbands and wives do not share the same skin name, and children do not share their parents' name. Rather, it is a sequential system, so skin names are given based on the preceding name and its level in the naming cycle. Each nation has its own skin names and each name has a prefix or suffix to indicate gender. There are 16–32 sets of names in each cycle ('Indigenous Kinship', Discover Stories, *Australians Together*, 2016, <http://www.australianstogether.org.au/stories/detail/kinship-and-skin-names> [accessed 30/12/16]).

[42] Guse, D., op. cit., pp. 6–7.

[43] Ibid.

[44] Pickering, M., 'Lost in Translation', *Borderlands e-journal*, Vol. 7, No. 2, 2008, p. 9.

[45] Ibid.

[46] Ibid.

mortuary ceremonies.[47] Referring to Maddock (1974) and Morphy (1984), Pickering notes that for Indigenous communities which maintain their traditional mortuary practices, prior to European influence, the body acts as a vessel for the spirit, and when subjected to specific community mortuary ceremonies, leaves only the bones behind.[48] The separation of flesh from bone, Pickering notes, is a symbolic representation of the separation of the body and spirit; therefore, in principle, the bones are disassociated from the ancestral spirit and no longer empowered.[49] Belief in this principle, Pickering infers, is reflected in the final management of remains, and ultimately strongly reflects the views of many Christian churches.[50] However, many Australian Indigenous people performing mortuary ceremonies over remains do not believe that the ancestral spirit of the deceased is no longer connected to the remains or that spiritual significance is no longer associated with the remains. McNiven and Russell highlight that allowing burials to erode away naturally is seen by certain groups of Australian Aboriginals and Native Americans as conserving their spiritual significance eternally,[51] and that their conscious removal and disruption are ultimately disrespectful and culturally insensitive.

Pickering observed, through his own field experiences within Australia, how remains were being picked up from the ground wherein they had been disrupted by animals, and placed carefully back in a rock shelter w/ithout apparent discontinuity in the spiritual discourse.[52] Upon questioning the relocation of found remains within rock shelters or caves, Pickering recounts responses along the lines of 'dead man's bones',[53] those being only the remains and not the spirit. Though the casual replacement of disturbed Australian Indigenous ancestral

[47] Ibid.
[48] Ibid.
[49] Ibid.
[50] Advisory Panel on the Archaeology of Burials in England, 'Guidance for best practice for treatment of human remains excavated from Christian burial grounds in England', *APABE*, Second Edition, p. 5, <http://www.archaeologyuk.org/apabe/pdf/APABE_ToHREfCBG_FINAL_WEB.pdf> [accessed 07/08/17].
[51] McNiven, I., Russell, L., *Appropriated Pasts: Indigenous Peoples and the Colonial Culture of Archaeology*, AltaMira Press: Oxford, 2005, p. 192.
[52] Pickering, M., 'Lost in Translation', *Borderlands e-journal*, Vol. 7, No. 2, 2008, p. 9.
[53] Ibid.

remains may be perceived to be an act against the cultural demands of many communities to rebury ancestral remains *in situ,* it is the concept of their land as their 'Mother' which is ultimately a prominent cultural element. In addition, through placing remains in a safe location, the individual is demonstrating respect towards Australian Indigenous ancestral remains and ensuring their integrity. When dealing with deceased human remains, the fundamental principle of respect is implemented and greatly encouraged. Human remains are treated with a level of care and consideration that is not dependent upon a specific religion or spiritual component, but rather that of basic human dignity. This principle of respect applies not only to the deceased, but also to the descendants of the dead, both biological and cultural.[54]

In reburying ancestors, Australian Indigenous community members are not only teaching a new generation the ways of traditional burial practices, but also helping to shape new traditions through the development of reburial customs. Through highlighting the importance of 'kinship', and the spiritual bond with 'Country', to a new generation, Aboriginal people are provided with the opportunity to actively participate in safeguarding the longevity of their heritage, acknowledging their cultural responsibility to their community and ancestors while also reinforcing their identity as Indigenous Australians. Furthermore, by involving and educating a new generation with this process, a generation which are strongly integrated with contemporary non-Indigenous Australian society, a stronger rapport with cultural institutions may be developed, and their approach and attitudes to repatriation, and specifically provenancing techniques, may shift.

Variations in traditional Australian Indigenous mortuary practices

Though united in their stand for the repatriation of their ancestral remains, traditional Australian Aboriginal and Torres Strait Islander mortuary practices

[54] Pickering, M., 'Lost in Translation', *Borderlands e-journal*, Vol. 7, No. 2, 2008, p. 10.

differ vastly, with various communities within each state practising their own traditional burial techniques. Their practices are, however, not distinguished by current state boundaries. It is important to recognise the varying Australian Indigenous traditional mortuary practices, as they not only highlight the complexity of the Australian Aboriginal and Torres Strait Islander peoples and their culture, but also emphasise the impact that different mortuary practices have on the repatriation issue as a whole.

For traditional Australian Indigenous communities, their surrounding landscape and community boundaries prove a distinguishing element in the method and placement of burials,[55] with varying techniques dependent on not only their cultural traditions, but also their age, gender, and social standing within the community.[56] According to Oxenham et al., the distinction in Australian Aboriginal ground burials, as observed within their text, is characteristically understood and noted, wherein ground burials were typically conducted in open-air locations, where an artificial pit or grave was excavated in a naturally loose or soft substrate, such as earth, gravel, sand, ash or shell midden, and the deceased's body placed in a pit, which was then backfilled or covered with surrounding materials such as leaves, bark, sand or stones.[57] The most commonly documented known form of Aboriginal burial practice within New South Wales is interment within the ground, specifically within a dug grave.[58] A. W. Howitt's *The Native Tribes of South-East Australia* clearly demonstrates this practice for the interment of both men and women, including the burial of the deceased person's belongings.[59]

According to Meehan's extensive research, the varying mortuary practices of Aboriginal communities throughout Australia fall under five categories: Abandonment, including disposition on the surface, in trees, on freestanding

[55] Oxenham, M. F., et al., 'Identification of Australian Aboriginal Mortuary Remains', in *Forensic Approaches to Death and Abuse*, Oxenham, M. F., (ed.), Australian Academic Press: Australia, 2008, pp. 39–41.
[56] Haglund, L., Wood, W. B., 'Dating Aboriginal Relics from the Contact Period', *Archaeology and Physical Anthropology in Oceania*, Vol. 11, No. 3, 1976, p. 166.
[57] Oxenham, M. F., et al., op. cit., p. 40.
[58] Ibid., p. 39.
[59] Howitt, A. W., *The Native Tribes of South-East Australia*, Macmillan and Co.: London, 1904, pp. 461–467.

platforms, in caves, and in water, as well as Cremation, Cannibalism, Burial, and Compound Disposal.[60]

	Burning	Cannibalism	Decoration	Depilation	Broken Bones	Burn nails	Disemboweling	Body parts	Jumping	Stones	Butchering
W.A.		X	X	X	X	X		X	X		
N.T.		X		X							
QLD.	X	X			X		X	X			X
N.S.W.	X		X	X			X	X		X	
S.A.		X			X			X			
VIC.							X		X		
TAS.	X							X			X

[Fig. 3] Table - Body preparation before burial, (Figure 1 from Meehan, B., 1971, p. 15).

	W.A.	N.T.	QLD.	S.A.	N.S.W.	VIC.	TAS.
Burial	X	X	X	X	X	X	X
Cremation		X	X	X	X	X	X
Trees	X	X	X	X	X	X	X
Cannibalism	X		X	X		X	
Caves	X		X	X			
Free-standing platforms	X		X	X			
Abandonment	X		X	X	X	X	X
Surface	X				X	X	
Water			X			X	

[Fig. 4] Table - Burial position table, (Figure 8 from Meehan, B., 1971, p. 93).

[60] Meehan, B., 'The Form, Distribution and Antiquity of Australian Aboriginal Mortuary Practices', Thesis submitted for the degree of Master of Arts, *The University of Sydney*, December 1971.

Davidson, additionally, illustrated a similar categorical breakdown in the analysis of Western Aboriginal Australian methods of disposal.[61]

	Southeast W.A. Southwest C.A. Western S.A.	Southwest W.A. Southern S.A.	Numurkah VIC.	Seymore R. VIC.	Seymore R. VIC.
Position of Body	Flexed	Flexed	Flexed	Flexed	Flexed
Body Placed on-	Right side	Right side	Left side	Back	Back
Axis of Grave	East-West	North-South	East-West	East-West	East-West
Orientation of Head	East	South	East	West	East
Orientation of Face	North	East	South	East	West

[Fig. 5] Differences in the combination of basic traits in Western Australia, South Australia and Victoria, (Table 5 from Davidson, D. S., 1949, p. 89).

What is of particular note is that both Meehan and Davidson illustrate that many of these individual methods of mortuary disposal, as detailed above, in various cases follow another method depending on the community's particular practices.

Unlike traditional Western burials, Aboriginal ground burials are rarely purposefully constructed in a collective cemetery formation.[62] That being said, Pardoe, focusing on excavated mass burials unearthed within the Murray River and Darling Basin area of Victoria and South Australia,[63] argues that cemeteries were only found within this area,[64] with the Broadbeach site in Queensland, as

[61] Davidson's methods of disposal: Abandonment, Carrying of Corpse or Bones, Cremation, Cannibalism, Burial, Platform Exposure, and Secondary Disposal (Davidson, D. S., 1949, p. 75).
[62] Ibid.
[63] These sites include: Kow Swamp (in Taylor's Creek), Coobool Creek, Baratta/Tulla (just north of the Murray River), Lake Poon Boon, Robinvale/Euston, Snaggy Bend cemetery (at the Murray Darling junction), Lake Victoria (at Lake Victoria–Rufus River–Lindsay Creek), Roonka, Swanport, Fulham (in Adelaide), Broadbeach, and Lake Tandou (at the Tandou lunette site).
[64] Pardoe's four practical criteria, in his definition of a cemetery, are: the number of burials, contiguity, boundedness, and exclusivity of site use.

detailed by Haglund and Wood (1976), being the only clear exception to this rule.[65] However, as Oxenham et al. observe, it would be unwise to treat concentrations of burials in other parts of Australia as non-Indigenous, based on the current understanding of past mortuary practices.[66] Furthermore, graves differ throughout the country, in depth and structural composition, varying from shallow or open-air graves[67] to grave shafts, pits and horizontal tunnels.[68]

Davidson remarks that disposal of the dead by interment is almost universal in Western Australia, with the only areas that lack any evidence of burial being found within the Eucla district, at the head of the Great Australian Bight; this also potentially includes some localities along the Canning Stock Route.[69] That being said, there are distinct variations in the placement and treatment of deceased bodies and remains in their method of burial. It has been observed that binding the body with reeds, twine or string before interment, in either a flexed, extended or seated/crouched position, was a widespread traditional Aboriginal practice throughout Australia.[70] Blackwood and Simpson (1973), in their observations, further allude to the presence of archaeological records which illustrate the use of the extended position in ground burials, practised in both ancient and recent times, within places such as Lake Victoria and the Murray River. Moreover, the Kamilaroi and Gamilaraay people of New South Wales' northwest are known to have wrapped their dead in 'mummy-like' bundles:

> While the body was still warm, they brought nets and opossum rugs as wrappers for the corpse, spread them on the ground, and doubled the body into the form of a bale, with the knees and chin touching each other. Then they wrapped the bale in the nets and rugs and tied it tightly.[71]

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[65] Pardoe, C., 'The Cemetery as Symbol: The Distribution of Prehistoric Aboriginal Burial Grounds in Southeastern Australia', *Archaeology in Oceania,* Vol. 23, No. 1, 1988, pp. 1–16.
[66] Oxenham, M. F., et al., op. cit., p. 39.
[67] Davidson, D. S., 'Disposal of the Dead in Western Australia', *American Philosophical Society*, Vol. 93, No. 1, 1949, pp. 83–84.
[68] Oxenham, M. F., et al., op. cit., p. 40.
[69] Ibid., pp. 79–80.
[70] Dawson, J., (1881); Roheim, G., (1925); Dunbar, G. K., (1943); Howitt, A. W., (1949); Davidson, D. S., (1949); Meehan, B., (1971); Haglund, L., Wood, W. B., (1976); Oxenham, M. F., et al., (2008).
[71] Howitt, A. W., op. cit., p. 466.

The observed orientation of the body within the grave, specifically the head or face of the deceased, is noted by Davidson to hold specific significance for differing communities. For example, in Western Australia, though flexed bodies buried in east–west or north–south graves have been observed, in almost all known instances within the area Davidson examined the orientation of the face being in either an eastern or northern direction. At the time of publication (1949), only one known case of a flexed body facing the west was found, with no known cases of south-facing burials.[72] Meehan, however, illustrates that from her findings, south-facing corpses, though few in number, were only found in Western Australia, with the majority of known burials throughout the country facing east.[73] In certain cases, the separation of the body was conducted with the placement of body parts in specific locations that were of particular significance to the deceased, such as their birthplace, place of initiation, or the deceased's last camping place.[74] This again emphasises the significance that land has in the identity of an individual.

Howitt remarks that within tribes of the northern districts of the Kamilaroi 'Country', burials were occasionally conducted within soft ground; however, if there was no soft ground at hand, the body would be placed in a hollow tree.[75] Furthermore, Meehan recounts Angas (1850), whose observations highlighted the practice of corpses being burnt in hollowed-out tree trunks within South Australia and Victoria. In northern Victoria, on the other hand, the deceased's remains were burnt on a pyre, and the ashes collected and placed within a hollow tree.[76] In contrast, at Port Phillip in Victoria, cremated remains were either pulverised or scattered around the area of cremation.[77] In the case of married women, however, the cremated bones were pounded and placed in a small opossum-skin bag, to be carried around by the widower until he remarried or the bag was worn out, and subsequently burnt.[78] Davidson additionally remarked on individual

[72] Davidson, D. S., op. cit., p. 83.
[73] Meehan, B., op. cit., pp. 51–52.
[74] Ibid.
[75] Davidson, D. S., op. cit., p. 83.
[76] Meehan, B., op. cit., p. 20.
[77] Dawson, J., *Australian Aborigines: the languages and customs of several tribes of Aborigines in the western district of Victoria*, George Robertson: Melbourne, 1881, p. 63.
[78] Ibid.

communities, such as the Lyne River people, who divided specific bones of a deceased person into three separate bundles, which were then distributed to various locations of particular significance to the deceased.[79] Other Western Australian communities, such as the Worora people and Warramunga people, view certain bones, such as the long leg bone and arm bone, with particular cultural significance.[80] These selected bones were consequently wrapped separately from the other remains, which after a time were ceremoniously rejoined with the other remains in their final resting place within a cave or rock shelter ossuary.[81] The displacement of specific bones within various locations, though culturally appropriate to the Indigenous community, may have been viewed as unusual by British settlers, believing that their own cultural ideas and practices regarding the sanctity of the dead and mortuary practices were superior, perhaps prompting their own justification in the acquisition of these ancestral remains, thinking the remains to be discarded,[82] as highlighted in Chapter One.

The mortuary practices of the Yuin tribes,[83] as detailed by Howitt, were such that when a man died, his body was wrapped in an opossum[84] rug, his articles of dress or ornament were put with him, either placed under his head or wherever there was room, a sheet of bark was rolled around him and corded tight, and his weapons were given to his friends.[85] The medicine man then climbed up a tree, at the foot of which the corpse had been placed. The women and children remained at the camp, and all of the men present, whether related to the deceased or not, climbed up the tree after the medicine man. He, being up among the branches, would shout out *'Kai'*[86] and look up into the air. Then, all would listen carefully for the voice of the *Tulugal.*[87] If the voice of the *Tulugal* were clear and distinct, the

[79] Davidson, D. S., (1949, pp. 78–79); Meehan, B., (1971).
[80] Davidson, D. S., op. cit., p. 78.
[81] Ibid.
[82] Turnbull, P., 'British Anthropological Thought in Colonial Practice: the appropriation of Indigenous Australian bodies, 1860-1880', in *Foreign Bodies: Oceania and the Science of Race 1750-1940*, Douglas, B., Ballard, C., ANU E Press: Canberra, 2008, pp. 205–228.
[83] Yuin tribes are located along the south coast of New South Wales.
[84] Referred to today as *possum*: a small native Australian marsupial.
[85] Howitt, A. W., op. cit., p. 463.
[86] "Hallo!"* in Howitt, A. W., op. cit., p. 463.
[87] The spirit or ghost of the deceased*.

deceased had died of some sickness, but if it were dull and choking, then he had been 'caught', that is, killed by some evil magic.[88] An interesting note, as highlighted by Howitt, was the intense fear that the Yuin people expressed towards the possible resurrection or haunting of the dead man;[89] thus, the placement and preparation of the body in their specific mortuary practice must be completed. Additionally, Howitt examines the burial practices of the Port Jackson[90] tribes, as described by David Collins (1756–1810), Deputy Judge Advocate and Lieutenant-General, where in 1796 he observed that these tribes belonged to the Katungal and, thus, were kindred to the Yuin.[91] Howitt continues, highlighting that the young [Katungal] people were buried, but those who had passed into middle age were burnt.[92]

In Constance Campbell Petrie's novel entitled *Tom Petrie's Reminiscence of Early Queensland*, Thomas Petrie (1831–1910) is described as an avid explorer of Australia. Depictions of his travels around Australia illustrate his encounters with various Aboriginal populations within Queensland. Petrie highlights her father's particular encounter with a community burial ceremony, as suggested by Haglund and Wood, originating from the Wide Bay area, which practised the purposeful removal of skin and flesh from the bone[93] and, in some cases, the ritualised cannibalism of the deceased:

> Whenever the death of an Aboriginal took place, all friends and relatives would gather together …In the meantime, a couple of men would get some sheets of tea-tree bark on which to place the body, and if the corpse was not to be eaten, it would be wrapped up in this bark... The feet were always left exposed. Then two old men would carry the body… They would go some distance till they came to a tree (generally in a gully out of sight) with a fork in the stem… a platform would be made with sticks…the body would be lifted up on to this platform…the head was placed next to the tree, the feet would point always towards the west. A small fire was lit to one

[88] Howitt, A. W., op. cit., p. 463.
[89] Ibid.
[90] A cove located in New South Wales, Australia, encompassing Sydney Harbour, Middle Harbour, North Harbour, and the Lane Cove and Parramatta Rivers.
[91] Howitt, A. W., op. cit., p. 463.
[92] Ibid.
[93] Haglund, L., Wood, W. B., op. cit., pp. 163–185.

> side of the platform so that the spirit of the deceased might come down in the night and warm them-self by the fire or cook their food. Additionally, a weapon or tool would be placed next to the fire so that the spirit could go hunting or scavenge food in the night. Once the flesh had dropped off the body…taking it [the body] down, they would proceed to separate the bones from each other. Certain of these [bones] were always religiously put aside and kept—they were the skull, leg, arm, and hip bones—while those of the ribs and back, etc., were burnt.[94]

Dawson notes that though the act of cannibalism gave rise to the generalised idea and depiction of Aboriginals as cannibals and, therefore, 'savage' and 'uncivilised', as already discussed in Chapter One, the act of eating flesh of the deceased is revered as a mark of affectionate respect in the solemn service of mourning the dead. That being said, Dawson reiterates that never is the flesh of enemies eaten or any member of another tribe.[95] Furthermore, as detailed by Haglund and Wood, though the act of cannibalism is no longer prevalent and practised by Australian Indigenous communities, the ritual is known and understood through the archaeological discovery of 'chop' marks on discovered remains, marks specifically indicative of slicing flesh rather than the dismembering of entire limbs, or as a result of warfare.[96] It is the evidence of traditional and community-specific mortuary practices, such as those detailed above, that could help to pinpoint a specific location for repatriated Australian Indigenous ancestral remains.

Archaeologist David Byrne contextualises the demonstrated shift in Australian Indigenous mortuary practices within New South Wales over the last two hundred years.[97] With the impact of British settlers and the introduction of Missions, more Aboriginal people adopted Christianity, constructing their own individual cultural practices, with smoking ceremonies carried out at funerals and traditional possum skin, or bark wrapping, replaced by the blanket that the deceased had used during their life.[98] Lawrence and Davies note that for contemporary Indigenous

[94] Petrie, C. C., *Tom Petrie's Reminiscences of Early Queensland*, Watson, Ferguson & Co.: Brisbane, 1904, pp. 30–32.
[95] Dawson, J., op. cit., p. 67.
[96] Haglund, L., Wood, W. B., op. cit., pp. 163–185.
[97] Byrne, D., *In Sad But Loving Memory: Aboriginal Burials and Cemeteries of the Last 200 Years in NSW*, NSW National Parks and Wildlife Service: Hurstville, 1998.
[98] Ibid., p. 11.

Australians, graves serve a crucial part of their cultural memory and attachment to places, which has, over time, evolved and engaged with 'white' Australian practices in order to combine tradition with change, while still maintaining their cultural identity.[99] Even so, as previously mentioned, the cultural diversity of traditional mortuary practices, cultural beliefs, languages, kinship ties, and social behaviours between communities throughout the country and those neighbouring one another, serves to accentuate the intricacy and complexity of the Australian Indigenous culture, including the importance of ensuring that ancestral remains return to their originating community for interment and are resided over according to their community's customary practices.

Methods applied to determine the provenance of Australian Indigenous human remains: craniometric analysis, isotope readings, DNA testing, biometrics, and genotyping

While it is important to acknowledge the traditional mortuary practices of different Australian Aboriginal communities throughout the country, use of any records detailing the manner and situation in which the human remains were initially found within the landscape would prove highly beneficial in the provenancing process. Alternatively, the presence of any physical marks, or culturally specific indicators, on the remains themselves may provide insight into pinpointing a community or region of cultural affiliation. These anatomical or cultural indicators, however, are not always present, requiring alternative methods of provenancing to be conducted.

Thankfully, there are other new and evolving ways in which cultural institutions are able to determine the provenance of human remains within their collections. Though an exact location of a community of origin cannot always be established due to the decaying condition of the skeletal remains, there are alternative techniques which can be applied to narrow down and pinpoint an approximate

[99] Lawrence, S., Davies, P., *An Archaeology of Australia Since 1788*, Springer: London, New York, Dordrecht, Heidelberg, 2011, p. 348.

location or region of origin. First and foremost, when dealing with such a delicate matter as Australian Indigenous ancestral remains, a non-invasive approach is applied, with focus centred on exhausting all information from archival records and previous scientific analysis, as well as community consultations and outreach. Following this, the appointment of various specialists, such as biological anthropologists and archaeologists, for any further analysis of and investigation into possible provenance has proven beneficial for museums in respect of the repatriation process. Some of the techniques used to determine provenance include craniometric analysis, isotope readings, DNA testing, and genotyping.

Craniometry proved to be a prominent and influential technique during the nineteenth century. French physical anthropologist Paul Broca (1824–1880) led the process through the development of the cephalic index, as well as the invention of many instruments with which to measure and aid in the science of 'craniometry'. In a bid to further the development of scientific understanding of human evolution, Broca defined various cranial specifications of differing racial groups,[100] attesting to Darwinism and American physician and natural scientist Samuel Morton's (1799–1851) principles of phrenology.[101] In addition, craniometrics[102] has been used to determine the gender of skeletal remains, age approximation, racial affiliation, biometrical load calculations, and analysis of encephalisation.[103] Though this method is non-invasive, it provides only a basic evaluation which would merely determine the racial affiliation of the remains as Indigenous Australian. Additionally, this technique can only be applied to the analysis of skulls, and perhaps would prove ineffective in the analysis of fragmented skulls or remains which are missing their skull. Cressida Fforde,

[100] Fluehr-Lobban, C., *Race and Racism: An Introduction*, AltaMira Press: UK, 2006, p. 138.
[101] Fforde, C., 2004, pp. 22–26); Phrenology* is a discredited field of study. It used the shape of the skull to determine an individual's personality traits, and applied theories of hereditarianism which promoted the idea of genetics playing a major role in determining traits such as intelligence and personality, and polygenism being an ideology that saw human races as created separately and unequal (Renschler, E. S., Monge, J., 2008).
[102] Craniometrics: a technique applied to measure and study the form, structure and topography of the brain and skull in order to identify and differentiate human races (The Editors of Encyclopædia Britannica, (ed.), 'Paul Broca', *Encyclopædia Britannica*, <https://www.britannica.com/biography/Paul-Broca#ref277914> [accessed 07/08/17]).
[103] White, T. D., Black, M. T., Folkens, P. A., *Human Osteology*, Third Edition, Elsevier Academic Press: USA & UK, 2012, p. 96.

Associate Professor and Deputy Director of the National Centre for Indigenous Studies at the Australian National University, detailed, in a public symposium at Simon Fraser University on 22 October 2015, that in the determination of Australian Indigenous ancestry, craniometrics is not typically used today, as it proves questionable in the analysis of remains which are of mixed ancestry, which therefore cannot be matched to a preconceived category and are ultimately determined as different.[104] This limitation does prove significant, as Australia's history and that of Indigenous Australians are intertwined, with many acts of racial elimination and interbreeding by settlers, as discussed in Chapter One, resulting in the dramatic decline in the number of 'pure' Aboriginal communities and the ever-increasing biracial diversity.

The use of isotope analysis and its detailed signature in the provenancing of Indigenous skeletal remains has allowed for a more accurate identification of the remains in respect of a specific region, aiding in narrowing the search for a specific originating community. Ultimately, this analysis relies on the qualitative estimates of quantities of dietary components found within the bones.[105] This form of analysis, in addition to the remains, proves to be of immeasurable value, providing information regarding diet, landscape use, and long-term societal change and continuity.[106] Although previously deemed impossible to acquire such vital information from a food source, as food was rarely preserved, this new analysis technique has proven invaluable.[107] Pate et al. detail that the variations in stable carbon isotope values are related predominantly to relative proportions of marine vs. terrestrial foods and C3 vs. C4 plant foods included in diets.[108] According to Pate et al., their research illustrates the variations in nitrogen isotopes, which may relate to marine vs. terrestrial dietary intake, trophic levels, nutritional stress,

[104] Fforde, C., 'Provenancing Indigenous Human Remains for Repatriation', *Intellectual Property Issues in Cultural Heritage*, 20 January 2016, [Video file], <https://www.youtube.com/watch?v=C4dnSdRj_bI> [accessed 07/03/16].
[105] Pate, F. D., et al., 'Determination of Geographic Origin of Unprovenanced Aboriginal Skeletal Remains in South Australia Employing Stable Carbon and Nitrogen Isotope Analysis', *Australian Archaeology*, No. 55, December 2002.
[106] Ibid.
[107] Ibid.
[108] Ibid.

water restriction, and synchronic and diachronic changes in rainfall patterns.[109] In addition, the oxygen, strontium and lead isotopes in bones and teeth have also been assessed to highlight migration and geographical origin in prehistoric populations.[110] As the landscape within Australia is so vast and varied, with specific tribal diets determined by their location or readily available resources within the environment, the use of isotope analysis would prove instrumental in determining the provenance of ancestral remains categorised as unprovenanced.

Oxygen isotope percentages found within mammals are determined by the ratios in water that the deceased obtained from drinking and consuming food.[111] This information is instrumental in the archaeological assessment of locations, as they correlate with environmental variables such as temperatures during rainfall of varying intensity, which, within Australia, can fluctuate significantly between different regions.[112] Strontium is a naturally occurring chemical component present at varying levels in many types of bedrock, and is naturally broken down and transferred into soil and groundwater, which is then absorbed into the food chain to be consumed.[113] Similar to calcium, strontium accumulates in the bones and teeth of humans during their lifetime; therefore, the strontium isotopic composition found within the teeth and bones of remains can serve as an indicator in pinpointing the location of where an individual lived and died.[114]

Professor Patrick Degryse of the Division of Geology at the University of Leuven notes that every geological substrate has a specific composition and, thus, a strontium signature, allowing for the determination of a person's origin.[115] That being said, through comparative analysis of particular geological areas with

[109] Ibid.
[110] Ibid.
[111] Theden-Ringl, F., et al., 'Buried on Foreign Shores: Isotope Analysis on the Origin of the Human Remains Recovered from a Macassan Site in Arnhem Land', *Australian Archaeology*, December 2011, p. 42.
[112] Ibid.
[113] 'Strontium in bones reveals geographical origin of human remains', *KU Leuven News*, 2012, <https://www.kuleuven.be/english/news/2012/strontium-in-bones-reveals-geographical-origin-of-human-remains202c> [accessed 10/12/16].
[114] Ibid.
[115] Ibid.

human remains, Degryse argues that the identification of a specific 'Country' or city is not possible, with merely a more general geological area being determined.[116] The analysis of carbon isotopes in determining provenance is, according to Theden-Ringl et al., typically used to reconstruct ancient diets.[117] The method is based on varying plant groups which have a subtle and specific difference in the separation of atmospheric carbon dioxide during photosynthesis.[118] This technique aids in determining the age of remains as well as deciphering the diet of the deceased throughout their life, which, in turn, would help to locate a possible region of origin.

The analysis of DNA from human bones dating in excess of five thousand years belongs to the field of research known as 'ancient DNA', or aDNA, which includes the study of DNA from old and degraded biological tissues, including archaeological remains, material from ethnographical collections, hair, ivory, old pathology specimens, stored blood and serum samples, and religious relics.[119] Ancient DNA and forensic DNA studies share similar circumstances and problems during analysis, as biological samples analysed, including hair, blood and bone, may be damaged due to exposure to heat and ultraviolet light, or contaminated by dirt or DNA from other sources within a museum's collection.[120] Pickering highlights that some remains still bear signs of past examination, with the presence of scratched grids used for previous sketching of the samples, while other remains have been purposefully cut to expose sinus cavities, brain cases or interesting pathology, providing scientists, archaeologists and academics with a full invasive examination of the remains.[121] Some remains, Pickering reiterates, have screws, nuts, bolts, wires and armatures to articulate them, as well as the presence of residual mercury in the sinuses, a method used in measuring sinus capacity, while others have grime from oil-based lamps, soot, and even grease and

[116] Ibid.
[117] Theden-Ringl, F., et al., op. cit., p. 43.
[118] Ibid.
[119] Hagelberg, E., 'Analysis of DNA from Bone: Benefits versus losses', in *More Than Just Bones: Ethics and Research on Human Remains*, Fossheim, H., (ed.), The Norwegian National Research Ethics Committee: Oslo, 2012, p. 96.
[120] Ibid.
[121] Pickering, M., 'Lost in Translation', *Borderlands e-journal*, Vol. 7, No. 2, 2008, p. 5.

other organic residue discharging from penetrations.[122] Furthermore, the presence of pencil and ink writing upon the remains, though detrimental by contaminating the remains, can be an integral piece of historical information detailing possible provenance, or a reference to pre-existing archives of scientific examination.[123] It is not surprising, therefore, that DNA forensics and aDNA have developed in conjunction, both benefitting from technical advances in molecular biology.[124]

In the provenance debate, DNA would seem highly appropriate in determining the biological connection of remains to living descendants, a process utilised for repatriation within the USA to determine cultural affiliation of Native Americans, as will be discussed in Chapter Five. Nevertheless, Henry Atkinson, a Wolithiga Elder and spokesperson for the Yorta Yorta National Aboriginal Corporation Council, expressed his concerns towards DNA testing, as he felt that it may call into question certain necessary characteristics which contemporary Indigenous Australians require, in order to establish not only a biological link to remains, but also their identification as 'Indigenous'.[125] This, in turn, could prove detrimental to the Australian Aboriginal and Torres Strait Islander peoples, as it not only questions their authority in claiming their ancestral kin, but also undermines their cultural identity and 'Aboriginality'.[126] Russell stresses that it is the connection with the land that shapes Australian Indigenous identity and their 'sensing of place', which is maintained within an individual even when located off 'Country'.[127] While connection to ancestral remains through kinship ties and relatedness are important components in the discourse of cultural affiliation, the reliance on tangible evidence such as DNA places some Australian Indigenous community members in a conflicting position of self-identity. Though this may serve to benefit institutions which favour the retention of scientifically significant

[122] Ibid., pp. 5–6.
[123] Ibid., p. 5.
[124] Hagelberg, E., op. cit., p. 96.
[125] Atkinson, H., 'The Meanings and Values of Repatriation', in Turnbull, P., Pickering, M., (2010), op. cit., p. 17.
[126] Ibid.
[127] Russell, L., 'Remembering places never visited: connections and context in imagined and imaginary landscapes', *International Journal of Historical Archaeology*, Vol. 16, 2012, pp. 401–405.

human remains, the notion assumes that only communities which are deemed 'traditional' or 'authentic', have any true genetic relatedness to ancestral remains. Although it would be a misrepresentation to suggest that only 'traditional' Australian Indigenous communities have a more readily recognised cultural claim to ancestral remains within museums, in the past there have been instances within British museums wherein legislation and museum policies have denied a claim for repatriation due to their strict provenancing requirements, as highlighted in the previous chapter. Even so, DNA could still play an influential role in determining the provenance of unprovenanced Australian Indigenous ancestral remains, specifically when combined with isotope analysis. However, as discussed in the previous chapter, any additional scientific testing on Australian Indigenous ancestral remains must be approved by the originating community of the remains. This requirement consequently inhibits unprovenanced ancestral remains from being provenanced, as their originating community has not yet been ascertained. This ultimately calls into question who therefore has the authority to speak for unprovenanced remains and approve the use of invasive testing so as to provide the opportunity for a possible provenance to be allocated.

While previous resistance towards additional invasive scientific testing by Australian Indigenous communities has been fierce, in more recent years, and perhaps as a direct result of the growing number of poorly provenanced ancestral remains occurring within museum collections, as suggested by Emma Martin from National Museums Liverpool (Appendix 3), consideration towards the use of genotyping has been prompted in an attempt to ascertain a plausible community of origin, though there has been little research attributed to genotyping in the past.[128]

While still in its infancy, Fforde highlights that living Australian Indigenous people have been encouraged to participate in the testing and providing of their own

[128] Genotyping* is the process of determining the genetic constitution — the genotype — of an individual by examining his or her DNA sequence. Genotyping can be applied to a broad range of organisms, including microorganisms ('What is Genotyping and Expression Profiling?', *Coriell Institute for Medical Research*, <https://www.coriell.org/research-services/genotyping-microarray/what-is-genotyping-and-expression-profiling> [accessed 04/07/17]).

DNA, which is to be stored and used as comparative samples against ancestral remains.[129] This movement is truly promising for unprovenanced remains and the repatriation process; however, ethical consideration regarding the storage of and access to Indigenous DNA must be acknowledged and administered through this process. Nevertheless, the willingness of Indigenous Australians to consent to hand over their DNA to museums demonstrates their determination and cultural obligation in returning their ancestors to 'Country', as well as their commitment to cooperating with museums. Even though DNA analysis proves insightful, it is, however, invasive, requiring a fragment of bone, which would be destroyed through the process, in order to ascertain information. Therefore, the application of non-invasive techniques is prioritised and should be fully exhausted before any other invasive methods are considered. It is interesting to note that the evidence of initiation rituals found on remains, though rare, is a significant indicator of a specific region or community.

Biological anthropologist and archaeologist Colin Pardoe has been working to provenance Australian Indigenous human remains since the mid-1980s. Pardoe has worked with various collections across Australia, identifying the origin of human remains from museum collections or archaeological excavations. While working on the National Skeletal Provenancing Project at the South Australian Museum, alongside Deanna Hanchant, Pardoe was able to develop and implement a new technique for provenancing known as Biometric (or Biomorphic) provenancing. At present Biometrics is considered one of the most commonly applied provenancing methods for repatriating remains using a non-destructive approach. This specific form of provenancing uses measurements from human remains, and takes into account any strong relationships between biology and geography, a relationship which according to Pardoe is 'formed and maintained by evolutionary processes including natural selection and gene flow'.[130]

[129] Fforde, C., 'Provenancing Indigenous Human Remains for Repatriation', *Intellectual Property Issues in Cultural Heritage*, 20 January 2016, [Video file], <https://www.youtube.com/watch?v=C4dnSdRj_bI> [accessed 07/03/16].

[130] Pardoe, C., 'Repatriation, Reburial and Biological Research in Australia: Rhetoric and Practice', in *The Oxford Handbook of Archaeology of Death and Burial*, Tarlow, S., Stutz, L. N., (eds.), Oxford University Press: United Kingdom, 2013, p. 744.

Therefore, with the application of this method, in conjunction with sufficient data, it is possible to use multivariant statistical analysis in order to identify a specific group an individual may originate from.[131] In order to assess the effectiveness of his method Pardoe conducted a bind test using random samples of known origin against the database. While the results were affected by the degree of completeness of the samples, the results indicated that at state or regional level placement of individuals was 87-94% correct, with analysis of individuals in a specific region found to be 83% correctly placed in their community or an adjoining neighbour.[132] This method, which Pardoe has named the Remains Identification Programme (RIP), has been successfully implemented in a vast number of museum collections within Australia as well as internationally with promising results.[133]

The case of the Narrabeen Man, who was accidentally uncovered in 2005 by contractors digging a trench for electricity cabling in North Sydney, is unique, requiring the use of various methods of scientific analysis to establish any relevant origin. The specific positioning and posture of the remains — as though he had been flung to the ground or thrown into a shallow grave, one arm across his neck and his head shifted off of the top of his vertebral column, are considered unusual.[134] According to lead excavator and archaeologist Dr Joe MacDonald and physical archaeologist Denise Donlon, most formal burials found in Australia are in particular postures, such as the foetal position.[135] Through carbon dating, it was established that the skeletal remains were around four thousand years old.[136] In addition to this, Donlon examined the skeletal remains and was able to identify them as an Aboriginal man due to various culturally specific characteristics, such

[131] (Pietrusewsky, M., 1984); (Wright, R.V.S., 1992); (Verano, J. W., DeNiro, M. J., 1993); (Howells, W.W., 1995); (Pardoe, C., 2006; 2013).
[132] Pardoe, C., 2013, op. cit., p. 744.
[133] Ibid., p.745.
[134] 'Narrabeen Man', *Catalyst*, 19 June 2008, <http://www.abc.net.au/catalyst/stories/2278381.htm> [accessed 04/02/16].
[135] 'Narrabeen Man (19/6/2008)', Story Archive*, Catalyst*, ABC, <http://www.abc.net.au/catalyst/stories/2278381.htm> [accessed 04/02/16]; 'Narrabeen Man: Dr Denise Donlon', *Catalyst Special Edition*, 25 July 2008, <http://www.abc.net.au/catalyst/forensics/> [accessed 04/02/16].
[136] 'Narrabeen Man', *Catalyst*, 19 June 2008, <http://www.abc.net.au/catalyst/stories/2278381.htm> [accessed 04/02/16].

as pronounced and large teeth and tooth wear, indicative of a traditional Aboriginal diet, as well as the shape and formation of the base of the nose.[137] Through further analysis of the remains, it was determined that the Narrabeen Man would have stood at six feet tall. This is unusually tall, as the average height of Aboriginal men within this particular region in Sydney was five feet six.[138] This evidence calls into question the possibility that, perhaps, he was a stranger, trespassing in this region and around the Ku-ring-gai Garrigal community.[139] What is most intriguing is the violent demise which the Narrabeen Man suffered, in what is suggested to be a ritualised attack. The presence of spear tips still lodged in the skeleton's spine, in addition to several other fractures found on the remains, and those which did not penetrate bone attests to the violent and painful end which the Narrabeen Man suffered.[140] Through analysing Aboriginal ritual practices within the region and comparing them with the remains, it can be suggested that as the Narrabeen Man was 30–40 years of age and had all of his front teeth still intact, it indicates that he had not undergone the region's traditional initiation practice of removing the two front teeth.[141] Though it can be suggested that perhaps the initiation act of tooth pulling had not yet been introduced four thousand years ago, nevertheless, as there are no skeletal remains of the same age or from the same region as the Narrabeen Man to act as a comparison, it is difficult to ascertain this.

Through stable isotope analysis of the found contents of his stomach, Donlon argues that he would have had a marine diet, suggesting that he was a coastal dweller.[142] This information would aid in pinpointing various areas which he may have journeyed or from which he originated. According to Allen Madden, the Cultural and Educational Officer with the Aboriginal Metropolitan Land Council of Sydney and a Gadigal Elder, the Narrabeen Man would have had to have done

[137] Ibid.
[138] Ibid.
[139] Ibid.
[140] Ibid.
[141] 'Narrabeen Man', *Catalyst*, 19 June 2008, <http://www.abc.net.au/catalyst/stories/2278381.htm> [accessed 04/02/16].
[142] 'Narrabeen Man: Dr Denise Donlon', *Catalyst Special Edition*, 25 July 2008, <http://www.abc.net.au/catalyst/forensics/> [accessed 04/02/16].

something severe to the regional tribe in order to have received such a violent punishment.[143] Madden acknowledges that scientific analysis has provided a vast amount of information regarding the differing physical characteristics of Australian Aboriginal people, their diet, ritual practices, hunting tools, methods of punishment, and interregional movements. The most important finding ascertained through the examination of the Narrabeen Man was the establishment of his age. Madden emphasises that determining the age of the remains was one of the main reasons as to why the community agreed to allow scientific testing to be conducted, as it served to solidify knowledge surrounding the longevity of the Australian Aboriginal people and their heritage within Australia.[144]

With research now finalised, the Narrabeen Man, at present, remains within the care of Sydney University's Shellshear Museum, awaiting the acceptance of a community for burial. Though it was originally suggested that he would be buried in Ku-ring-gai National Park in the north of Sydney in 2008,[145] due to the evidence uncovered highlighting the plausibility that he may be an outsider, in addition to the violent manner in which he was killed, present-day communities within the region in which he was found are questioning the spiritual repercussions which his interment on their land may cause. Madden highlights that 'we were trying to work out where we could put this fellow back into the ground…but there might be some bad medicine tied with him'.[146] Nevertheless, Madden hints at the Narrabeen Man's ultimate interment, stating: 'As with all Aboriginal people, you come from your 'Mother', Mother earth, and that's where you go back to.'[147]

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[143] 'Narrabeen Man', *Catalyst*, 19 June 2008, <http://www.abc.net.au/catalyst/stories/2278381.htm> [accessed 04/02/16].
[144] 'Narrabeen Man: Allen Madden Interview', *Catalyst Special Edition*, 25 July 2008, <http://www.abc.net.au/catalyst/forensics/> [accessed 04/02/16].
[145] Lane, S., 'Speared man unearthed after 4,000 years', *ABC News*, 21 December 2007, <http://www.abc.net.au/news/2007-12-21/speared-man-unearthed-after-4000-years/994510> [accessed 05/02/16].
[146] 'Narrabeen Man: Allen Madden Interview', *Catalyst Special Edition*, 25 July 2008, <http://www.abc.net.au/catalyst/forensics/> [accessed 04/02/16].
[147] Snow, D., 'Ill-fated warrior needs some rest', *The Sydney Morning Herald*, 6 July 2013, <http://www.smh.com.au/nsw/illfated-warrior-needs-some-rest-20130705-2phge.html> [accessed 06/02/16].

Museum considerations surrounding the treatment of human remains within UK and Australian collections

Historically, cultural considerations surrounding the treatment of Indigenous skeletal remains within museum collections were almost non-existent, with scientific advancement and insight proving more profitable to society than cultural affinity.[148] Indigenous community outcry and opposition towards continuous invasive scientific probing, coupled with the change in attitudes surrounding the treatment of remains, have led to the development of ethical policies within museums and the removal of Indigenous remains from public display, as already discussed in Chapter One. Governmental and museum policies that govern the regulated care, treatment and repatriation of human remains within a collection demonstrate and aim to acknowledge past injustices by striving to rectify the disrespect previously inflicted upon the skeletal remains and their descendants. However, museum policy regulations and requirements are often written in an academic vernacular, which subsequently limits the ability of Indigenous communities to comprehend institutional regulations and instilled requirements for claimants to fulfil in their requests for repatriation.[149] Due to this, many communities have sought guidance from museum personnel or legal advice in the development of a claim.

Debate continues surrounding the scientific benefits that Australian Indigenous ancestral remains may provide through additional future analysis. Recent recognition of the basic human rights of ancestral remains, and the cultural beliefs of living communities, which were previously denied or often ignored, now seems to have restricted the possibility of future invasive testing without the appropriate permission of the deceased's originating community or affiliated organisation.[150] It is, therefore, perhaps difficult for non-Indigenous Australians and Europeans to

[148] Swain, H., (2007); Jenkins, T., (2008); Walker, P., (2008); Gazi, A., (2014).
[149] Bloomfield, T., (2013); Curtis, N., (2014, pp. 93–95); Schultz, L., (2014); McCarthy, C., (2014).
[150] Australian Government, 'Information for Communities: Scientific Testing on Indigenous Ancestral Remains', *Department of Communications and the Arts*, Canberra, April 2015, <http://arts.gov.au/sites/default/files/Indigenous/repatriation/Information-Paper-Scientific-Testing-on-Indigenous-Ancestral-Remains.pdf> [accessed 15/02/16].

comprehend the spiritual effect which Australian Indigenous ancestral remains will face if interred outside of their community boundaries or lost during the scientific procedures. In acknowledging Australian Indigenous wishes and cultural beliefs, mutual respect between museums and the Australian Indigenous people has been instigated.

Some museums, specifically those within Australia that are designated as temporary repositories or separate storage facilities, as described in the previous chapter, have formulated individual museum policies specifically designed for the maintenance of Australian Indigenous ancestral remains and non-Indigenous human remains within their custody.[151] These policies aim to ensure that the cultural needs and beliefs of the ancestors and Indigenous communities are continually and comprehensively respected and maintained. In addition, a separate storage facility helps in limiting the access to these remains, ensuring that only relevant and approved museum personnel or Australian Indigenous community members can gain access. Though permission to handle skeletal remains is not always provided by the originating community, demonstrated respect in the treatment of the remains and acknowledgement of their humanity and heritage should be maintained. It seems that previous classification and treatment of Indigenous human remains as 'objects' within museum collections, rather than deceased human beings, still resonate amongst many visitors to Western museums today.[152]

Scientific testing has provided a vast quantity of information which would have previously been unobtainable, benefitting both Indigenous and non-Indigenous people alike. The application of new scientific techniques, and the relevance of their findings, continues to be a contentious matter. It is undeniable that through the application of new techniques, old methods can be tested for their accuracy

[151] National Museum of Australia, 'Non-Australian Indigenous Human Remains Policy, POL-G-024', (2009); *National Museum of Australia*, 'Aboriginal and Torres Strait Islander Human Remains Policy, POL-C-011', (2011).
[152] Harris, S., op. cit.

and previously unexplored research questions examined.[153] Community authority must, however, be respected and its approval obtained, as the uncovering of additional information relating to the deceased and their community, though highly insightful for scientific and academic advancement, may be viewed as disrespectful, highly invasive, and unnecessary by Australian Indigenous descendants. That is not to say that all Australian Indigenous communities are undeniably opposed to all scientific testing. In some cases, wherein remains are provenanced to a specific region or state within Australia, the use of scientific testing, though invasive, can provide the additional information needed to pinpoint a plausible geographical locality of origin, which will be discussed in depth later in this chapter. As the burial of Australian Indigenous ancestral remains is considered an important cultural obligation of the present generation, museums, biological anthropologists and specialists are encouraged to recognise and appreciate the dilemma which communities face when considering invasive scientific testing, and the cultural repercussions which may be inflicted upon their ancestors and their community. Due to this, it is integral that museums both repatriating and housing Australian Indigenous ancestral remains exhaust all relevant and non-invasive avenues of identifying a community of origin before additional scientific analysis is considered.

It is evident that cultural input and consultation are paramount in the process of repatriation; however, for the approval of any additional scientific examination of ancestral remains which hold very little to no known provenance, a different approach must be applied, and an alternative solution established so as to ensure that the ancestral spirits are cared for and, if possible, a provenance or place of interment allocated.

[153] Donlon, D., 'Aboriginal Skeletal Collections and Research in Physical Anthropology: An Historical Perspective', *Australian Archaeology*, Vol. 39, No. 1, 1994, p .77.

The National Skeletal Provenancing Project: South Australian Museum

The establishment of the National Skeletal Provenancing Project (NSPP) came about as a result of the Australian government's legislation encouraging Australian museums to relinquish their Australian Indigenous skeletal remains and secret/sacred objects within their collection and to commence repatriation procedures. Established in 1995 in affiliation with the South Australian Museum, the NSPP served to aid in the provenancing of ancestral remains to be repatriated by providing additional archival research and community outreach programmes to determine the exact community of origin, or as exact as possible. This programme ensured the safe return and subsequent burial of one hundred and eighty ancestral remains whose origins had previously been unknown. Additionally, the project aided in the unprovenancing of previously provenanced remains, highlighting the need for additional archival research into repatriated remains to be conducted when returning ancestors to communities for burial. The project also acknowledged the need to correct 'mistakes' in earlier provenancing and relevant records. Deanne Hanchant-Nichols, a consultant in Aboriginal and Torres Strait Islander Employment and Development at the University of South Australia, reflects on her involvement with the project and the various cases which resulted in the re-provenancing of ancestral remains to be repatriated. In *Practicalities in the Return of Remains: The Importance of Provenance and the Question of Unprovenanced Remains,* Hanchant draws on a personal encounter that she and her family, and community members, faced with regard to the mis-provenancing of ancestral remains believed to be Herbert Spender, her great-grandfather's younger brother. Though it was previously determined that the remains were those of Herbert, the family decided to allow Hanchant and the NSPP team to conduct additional research and evaluation so as to provide an exact identification. Hesitant to accept the previously determined provenance, a physical anthropologist was appointed to examine the remains, specifically the skull. The result of the analysis reported that the skull was of Asian descent, specifically Indian, and of someone much older than the date on which Herbert

was believed to have died.[154] More importantly, it was found that the skull was possibly female.[155] In addition to the physical findings, archival records indicated that the transaction of transferring the remains to Mr. Anderson of Tehore had occurred in India in 1895, from a man who wrongly recognised the skull to be that of an Australian Indigenous 'Native' and of souvenir interest.[156] Upon receiving the updated findings of the physical anthropologist, the family, Elders and interested members determined that the remains were, in fact, not those of their missing ancestor Herbert Spender, and were relieved that they had not caused spiritual distress by burying the wrong person in their 'Country'.[157] This example is a clear indication of the need to question the provenance of repatriated remains, specifically those of a particular age, or questionable means of acquisition.

Hanchant highlights two methodologies which should be considered in the provenancing of ancestral remains. Firstly, the holding institution should conduct their own thorough investigation into the provenance of the remains to be returned, focusing on the archival records and non-invasive analyses in order to provide adequate evidence. This method would prove an ideal solution, as it would eliminate the possibility of causing cultural duress. It would, however, require the dedication of the holding institution to using its resources as well as funding to conduct relevant investigations, and would, undoubtedly, be time-consuming and perhaps prove detrimental, as management and policy changes may result in the remains never returning home. In addition, criticism as to why the UK government should fund such a scheme would raise a cause for concern surrounding the government's financial priorities. The second proposal would require an Australian government-funded body based within the country holding the remains to conduct and collect the relevant research and evidence in order to determine provenance before the remains are sent back to Australia. This approach would ensure that the process is conducted and funded by a body whose intentions coincide with those of the Australian government's surrounding

[154] Hanchant, D., 'Practicalities in the return of remains: the importance of provenance and the question of unprovenanced remains', in Fforde, C., et al., (2002), op. cit., p. 313.
[155] Ibid.
[156] Ibid.
[157] Ibid.

repatriation. It would also permit possible ease in requesting material from relevant institutions both within Australia and internationally so as to aid in the repatriation process. This method would, however, require genuine commitment from the Australian government and consultant-based companies internationally. The company would also need to follow approved scientific methods detailed by Australian Aboriginal and Torres Strait Islander peoples, and, if possible, the backing of an Indigenous community from where the remains are believed to have originated. There are, however, some instances wherein remains, due to their fragmentary state or lack of archival records, cannot be appointed a provenance. According to Hanchant, these remains should be, without question, repatriated to Australia to be housed within the NMA, a government-appointed repository for unprovenanced remains, which will be discussed in the following chapter.

The National Skeletal Provenancing Project, albeit a dedicated and influential project aiding in the appropriate provenancing of ancestral remains from Australian state museums, as well as from the National Museum of Australia, was short-lived, coming to a close with the introduction of the Return of Indigenous Cultural Property (RICP) Program in 2000. The RICP focused on not only the provenancing of Indigenous ancestral remains, but also the process of repatriation on a larger scale (see Chapter Two). Though implemented to provide federal and state governments with an accurate assessment of how extensive the number of Australian Indigenous human remains within Australian collections were, as well as the establishment of their provenance, the information procured through the project did not greatly impact on repatriation policies or practices in any systematic way.[158]

[158] Cubillo, F., 'Repatriating Our Ancestors: Who Will Speak for the Dead?', in *The Long Way Home: The Meaning and Values of Repatriation*, Turnbull, P., Pickering, M., (eds.), Berghahn Books: New York & Oxford, 2010, p. 22.

Working to provenance Australian Indigenous ancestral remains[159]: Museum Victoria and the National Museum of Australia

Museum Victoria has been a pioneer in the repatriation and restitution of Australian Indigenous ancestral remains and secret/sacred materials (see Chapters Two and Four). Its approach to repatriation, and specifically provenancing, focuses predominately on cultural and community input, seeking advice and assistance from community members and Elders in its search for an appropriate correlating 'Country' and community of origin for its remains. Similar to the National Skeletal Provenancing Project, Museum Victoria has instigated various projects to ensure the provenancing of each case of Indigenous ancestral remains. Rob McWilliams from Museum Victoria has, since 1997, been meticulously assisting with the preparation, packing and relocation of the Indigenous collections from the Swanston Street location to Melbourne Museum's new present location. He was directly involved in the cataloguing and documenting of skeletal remains, objects, manuscripts, and photographs in the Indigenous collections.[160] As a member of Museum Victoria's repatriation team, McWilliams' primary role and overall aim was to repatriate Australian Indigenous ancestral remains, and men's ceremonial objects. This was conducted by providing information from the museum's database, historical documentation and archival material relating to the original provenance of ancestral remains and ceremonial objects in the museum's custody to the receiving communities within Victoria.[161] This open and interactive approach to repatriation and provenancing ensured that community members in Victoria were continuously consulted and played a participating role throughout the process. The open cooperation and communication between Aboriginal community members and museum personnel

[159] Out of respect for the Australian Indigenous people, and to enforce the spiritual and human affinity which these human remains have to their community, I will refer to 'human remains' as 'ancestral remains' for the remainder of this thesis, *with the exception of references to museum policies or direct references from texts.

[160] McWilliams, R., 'About me', *Museum Victoria*, 2016, <http://museumvictoria.com.au/collections-research/humanities/people/rob-mcwilliams/> [accessed 21/01/16].

[161] Ibid.

remain a constant practice within Melbourne Museum, specifically in the display and collection management of its Indigenous collection.

Lindy Allen, Senior Curator of the Northern Australian Collections at Melbourne Museum, reiterated the importance of maintaining constant community cooperation throughout not only the process of determining provenance, but also the entire repatriation procedure up until the handover of the ancestral remains.[162] Although Allen stressed the need to focus on remains which have some known provenance before concentrating on unprovenanced remains, she noted that the issues and process of provenancing remains are important to the Australian Indigenous people, and should encompass all ancestral remains and associated Australian Indigenous communities. Allen notes that Museum Victoria has spent an extensive amount of time and resources on negotiations with Australian Indigenous communities so as to identify the 'traditional or rightful owners' of any remains within its safekeeping.[163] The controversial issue of contending communities in the repatriation of ancestral remains, especially when community boundaries have changed over time or when only a general locality is ascribed to the ancestral remains, has ultimately prompted the museum to act as a mediator.[164]

With a means of supporting the Indigenous communities in the preparation of receiving ancestral remains for interment, Jamie Thomas, a Gunai-Kurnai and Peek Wurrung man, was appointed to the museum staff as Senior Project Officer, whose job is to primarily help with community negotiations. The Repatriation and Community Support Project at Museums Victoria has sought to alleviate conflict and ensure the return of ancestors to their rightful resting place.[165] Allen emphasised that even when the 'rightful/traditional owners' are identified, their ability and readiness to receive repatriated ancestral remains may be problematic, with discussions revealing a range of social, cultural and political issues despite

[162] Lindy Allen, Interview, Melbourne Museum, Melbourne, 10 December 2014.
[163] Ibid.
[164] Ibid.
[165] Allen, L., 'The Never-Ending Story: The Repatriation of Ancestral Remains from Museums', *Melbourne Historical Journal*, Vol. 42, No. 2, 2014, p. 25.

the logistical difficulties[166] that can inhibit a repatriation from going ahead.[167] In addition, Allen reiterates that the ever-present issue of competing claims for repatriation is very complex and often beyond the capability and capacity of the museum to resolve.[168] In the presence of competing claims for repatriation, the museum hands over ancestral remains to the community which has the most compelling claim, where evidence of ownership or kinship reflects and supports that which the museum's own research suggests. This is viewed as the most appropriate method of handling the matter in such an instance, as the retention of the remains within the museum collection is still viewed as highly detrimental to the spirit of the ancestor. Unfortunately, the approval of one community over the other may instigate community conflict, which would be detrimental to the museum's positive rapport with some communities and, ultimately, could negate the desired process of community healing through repatriation.

Museum Victoria recognises that the process of repatriation is one of healing. Therefore, when remains are handed over to any community or custodian, a member of the museum's Executive Management Team reads an apology[169] to honour not only the ancestral remains, but also the community and their heritage.

> In honouring your rights to self-determination, we recognise your leadership in directing how we manage and care for your cultural materials in our keeping. We respect your initiatives, and commit to a future of working together based on mutual respect and dignity.[170]

This above excerpt from the apology solidifies Museum Victoria's constant dedication to the repatriation of Australian Indigenous ancestral remains, and its commitment to working in partnership with communities throughout the entire repatriation process. Various state-wide forums have been held in collaboration with Aboriginal organisations regarding repatriation, in addition to the museum

[166] These logistical difficulties may surround financial resources and governmental or museum support for communities, transportation of ancestral remains, organisation of a place for burial, or community input and initiative in residing over the most appropriate burial ceremony for the ancestral remains.
[167] Allen, L., op. cit., p. 25.
[168] Ibid.
[169] Ibid., p. 26.
[170] Ibid.

bringing together groups which are able to process repatriation claims.[171] Allen detailed that these groups are encouraged to deal firstly with uncontested remains, and then to discuss with neighbouring groups where necessary for subsequent claims.[172] However, areas subject to competing claims continue to be fraught; therefore, at present, attention is instead paid to less problematic cases.[173]

The NMA repatriation process is also extensively proactive. As the main repository for repatriated Australian Indigenous human remains classified as both provenanced and unprovenanced, the NMA has a difficult task of maintaining constant care of remains while attempting to ascertain a community of origin and collaborating with communities on the handover process. The museum begins the process of repatriation with the identification of provenanced remains, which are then located on appropriate maps. This allows consultation with relevant state and territory heritage authorities, which assist in the identification of formally recognised representative organisations and individuals.[174] Pickering and Gordon emphasise that it is expected that the museum's actions will not conflict with the laws and protocols of the state or territorial jurisdictions in which the repatriation activities occur.[175]

In the process of provenancing ancestral remains from the NMA, research plays a focal role, with the employment of biological anthropologists and other consultants assisting in determining the provenance of remains.[176] When the museum retains human remains which it deems to be scientifically valuable, the relevant communities or custodians will be advised on the various resources that

[171] Ibid., pp. 21–29.
[172] Ibid.
[173] Ibid.
[174] Pickering, M., Gordon, P., 'Repatriation: The End of the Beginning', Griffin, D., Paroissien, L., (eds.), *Understanding Museums: Australian Museums and Museology,* National Museum of Australia, Canberra, 2011, <http://www.nma.gov.au/research/understanding-museums/MPickering_PGordon_2011.html> [accessed 02/03/16].
[175] Ibid.
[176] National Museum of Australia, 'Aboriginal and Torres Strait Islander Human Remains Policy, POL-C-011', *National Museum of Australia*, Canberra, 19 April 2011, Ver. 2.2, p. 4.

are available for their preservation.[177] Even so, any research conducted into any ancestral remains held within the NMA on behalf of communities must have the prior consent of traditional custodians or those authorised by them.[178] This does, however, exclude unprovenanced remains, and calls into question the possibility of conducting scientific testing on valuable remains through averting the need for community permission. Even so, the ethical repercussions from communities, if and when provenance is established, would impact on the museum's decisions and their rapport with the Australian Indigenous people. Nevertheless, if testing were to take place, copies of all data and relevant documentation regarding the human remains are to be given to the community concerned and consent from relevant communities provided before it is made public.[179] For these particular remains housed within the NMA at the bequest of their originating communities, communities or custodians retain full 'ownership' and have the authority to request the return of remains at any time.[180]

It is apparent that Australian Indigenous communities need to have appropriate and sensitive consultation and an open dialogue between not only museums, but also within their community in order to ensure that they are fully aware and prepared to receive their ancestral remains. Museums, within both Australia and the UK, need to recognise that many Australian Indigenous communities require time and understanding to allow the appropriate and necessary evolution and changes to mortuary practices and ceremonies to occur in Aboriginal traditions so that repatriation could amicably take place in the future.[181]

[177] Ibid., p. 7.
[178] Ibid., p. 5.
[179] Ibid., p. 4.
[180] Ibid.
[181] Guse, D., op. cit., p. 9.

Provenancing Australian Indigenous ancestral remains in British museums

By the time attitudes towards the ethical treatment and display of Indigenous ancestral remains and cultural material within institutions had changed, and the repatriation debate had been instigated, Indigenous ancestral remains would have been processed and stored by various hands and collections, with many institutions using an array of different accessioning registers, lists, catalogues and databases over time to manage the objects and human remains within their collections.[182] Furthermore, human error whilst inputting information into databases, though accidental and unintentional, is inevitable and a plausible cause for misinformation or confusion in the provenancing of human remains, causing future limitations and concerns when solely using these records as definitive evidence of cultural affiliation. Therefore, it is vital that repatriation curators and researchers meticulously delve through all relevant archives associated with each case of human remains within their collections in order to construct a comprehensive and adequate report detailing their findings. Thus, not only is the museum aware of the origins of remains, but Australian Indigenous communities are also assured that all surviving information pertaining to each case of human remains has been identified correctly[183] and that the ancestral remains being returned are not those of another community.

Even though contemporary museums have the benefit of a technological system put in place to catalogue and detail every object accessioned into their collections, due to historical circumstances and previous technological limitations and resources, archival records are not always kept up to date, nor are details always transferred from paper to an electronic format. Therefore, many ancestral remains are unable to be provenanced due to missing details or a lack of archival records. While many institutions in the UK, such as Manchester Museum, the

[182] Fforde, C., Ormond-Parker, L., Turnbull, P., 'Repatriation Research: Archives and the Recovery of History and Heritage', in *Heritage, Ancestry and Law: Principles, Policies and Practices in Dealing with Historical Human Remains*, Redmond-Cooper, R., (ed.), The Authors and Institute of Art & Law; USA, 2015, p. 42.
[183] Ibid.

Natural History Museum, and the Royal Albert Memorial Museum, have recognised the cultural obligation and affiliation that Australian Aboriginal and Torres Strait Islander peoples have towards their ancestors and community, and have been forthcoming in their acceptance of claims to return ancestral remains within their possession, other institutions which hold various policies and restrictions surrounding repatriation claims (as discussed in Chapter Two) require the recognition of precise cultural affiliation to be established between a living community and the remains before the repatriation process can commence.[184] The requirement of an established cultural affiliation through biological association is prevalent in US repatriation policies in order for a repatriation claim to be initiated, as will be further examined in Chapter Five. However, this requirement ignores the Australian Aboriginal and Torres Strait Islander concept of 'kinship', and their obligation towards their ancestors.[185] Additionally, the initiation of these restrictions can be perceived to be self-serving, allowing the institution to benefit from past failures so as to accurately maintain good records, while restricting access to archives, which may prove, or help to provide, the necessary information to determine the required documentation of cultural affiliation.[186]

While some institutions within the UK, such as the British Museum and the Natural History Museum, have recognised and reconsidered the cultural bond of 'kinship' associated with the Australian Indigenous heritage, there are other institutions within the country and Europe, however, which side heavily with their requirement for cultural affiliation to be established absolutely, and ultimately stand to prevent the returning and definitive loss of a desirable 'asset' of scientific and anthropological significance. With regard to ancestral remains which have limited to no known provenance, these enforced restrictions permit the maintained custody of these remains to the authority of the museum and,

[184] Ibid.
[185] Ibid.
[186] Fforde, C., Ormond-Parker, L., Turnbull, P., 'Repatriation Research: Archives and the Recovery of History and Heritage', in *Heritage, Ancestry and Law: Principles, Policies and Practices in Dealing with Historical Human Remains*, Redmond-Cooper, R., (ed.), The Authors and Institute of Art & Law: USA, 2015, p. 44.

ultimately, serve to reject any possible future claims. Even so, as previously mentioned, the repatriation of Australian Indigenous ancestral remains is not compulsory, specifically for museums outside of Australia, nor is there a requirement for museums to identify the cultural affiliation of remains classified as unprovenanced when a claim has not been made, as will be discussed in Chapter Four.

Even though, on a global scale, ideologies regarding the rights for the retention of Indigenous human remains by museums have changed,[187] the loss of such influential specimens, through their ultimate return and burial, still, at present, remains a conflicting subject.[188] Australian Indigenous communities are highly opposed to the continuous testing of ancestral remains, with many communities insisting that the integrity of the ancestral remains be maintained and any additional images capturing the remains be attached to the associated information held within the archives. There has, however, been a unique case regarding the repatriation of seventeen Australian Aboriginal ancestral remains from the National History Museum, where, in collaboration with the Tasmanian Aboriginal Centre (TAC), DNA samples from the remains were collected and stored in Tasmania, under the joint control of both the TAC and the Natural History Museum, allowing the possibility of future scientific use.[189] Though the decision to allow DNA samples to be taken may have been a compromising judgement in order to secure the return of the remains to Tasmania, it does, however, prove a possible solution for the undisputed return of all Australian Indigenous human remains held within UK museums. However, as previously discussed, DNA testing is highly invasive and for some remains which are contaminated or cremated would be considered unsuitable for such a procedure.

[187] Besterman, T., (2004); Fforde, C., (2004); Fforde, C., Hubert, J., (2006); Fforde, C., Ormond-Parker, L., Turnbull, P., (2015); Besterman, T., (2016, pp. 10–11).
[188] Jenkins, T., op. cit., 2010.
[189] Herman, A., 'Kennewick Man, Statutory Interpretation and the First North Americans', in *Heritage, Ancestry and Law: Principles, Policies and Practices in Dealing with Historical Human Remains*, Redmond-Cooper, R., (ed.), The Authors and Institute of Art & Law, 2015, p. 182.

The 'journey' of provenancing unprovenanced ancestral remains within Australian museums

In the provenancing of unprovenanced Australian Indigenous ancestral remains, museum documentation detailing the donor, or any form of transaction receipt, would allow researchers to gauge a timeframe as well as a possible location to map out the path upon which the ancestral remains embarked which led to their current location within a museum's collection. There are various instances wherein unprovenanced remains repatriated from international institutions may possess provenancing information detailing a community name which no longer exists in present-day Australia. It is for these various reasons that researchers, in addition to Australian Indigenous community members, are appointed to museum teams within the provenancing stage of repatriation, as their expertise is vital and their methods non-invasive.

As seen with the National Skeletal Provenancing Project, additional research into remains repatriated from any institution can aid in the provenancing and, at times, re-provenancing of ancestral remains. There are, however, ancestral remains which are returned to the NMA which ultimately cannot be provenanced without the involvement of scientific analysis. With many invasive scientific provenancing methods requiring the destruction of a fragmented sample from the source, concerns surrounding who holds the authority to speak for these unprovenanced ancestral remains and allow for such testing to be conducted continue to prove problematic. As unprovenanced ancestral remains have no community to speak on their behalf, it should therefore be questioned as to whether museum authorities, the Australian government or even the Australian Indigenous people as a collective representative body should be provided with the sole authority to make ultimate decisions regarding the outcome of these ancestral remains. Or, are the ancestral remains simply fated to rest within the NMA's collection until an alternative solution is found and deemed culturally acceptable by communities, or a non-invasive scientific test developed? While the Australian Advisory Committee for Indigenous Repatriation (ACIR) acts as a government body on behalf of the Australian Indigenous people; working to repatriate ancestral

remains from both national and international institutions, would this agency therefore be deemed fit in order to speak for the Australian Indigenous collective and subsequently authorise the use of scientific intervention in order to provenance unprovenanced ancestral remains, or, as exhibited in the case of the Narrabeen Man, should the community which the remains were found within, if know, be provided this the sole authority over the unprovenanced remains? These are questions which ultimately still remain unanswered.

Although museums and government officials within Australia reinforce the constant need for an Indigenous voice and presence to be included within the decision and repatriation process, due to the cultural diversity and complexities, differing mortuary practices, and the remote location of various Indigenous communities within Australia, ascertaining a definitive and unanimous decision would prove highly problematic when considering an appropriate solution for unprovenanced remains, which will be further examined in the following chapter. This dilemma consequently forces the government to rely on delegated state museums to act as 'temporary' repositories for unprovenanced and contested remains repatriated from national and international cultural institutions, in order to safeguard and preserve the ancestral remains until an appropriate solution is found.

The issue of unprovenanced remains is particularly controversial, as various institutions, predominantly those outside of Australia and without Indigenous communities, may perceive some Australian Indigenous community concerns over the prescribed provenance of ancestral remains, or their rejection in respect of burying remains on their land, for as long as they are in their unprovenanced state, to be a contradiction of the ultimate demand made by Australian Indigenous communities through other previous claims, and the overall purpose of repatriation. Although Australian Indigenous communities are faced with the cultural obligation and responsibility to ensure that the returned ancestral remains are those of their 'kin', communities must rely on institutions and their

thorough provenancing processes for their necessary assurance.[190] This ultimately places considerable pressure on museums and their staff. With the increasing number of unprovenanced remains housed within the NMA's collections, various contemporary Indigenous communities have reconsidered their previous objections to allowing scientific testing and have acknowledged the vast possibilities that these, and future alternative scientific tests, could provide for their lost ancestors and community members, thereby facilitating provenancing and consequently allowing their ancestors to finally return 'home'.[191] While it may be a few years before a definitive non-invasive or destructive provenancing method may be developed, the use of biometrics, isotopes analysis and genotyping are promising approaches, with some techniques providing Indigenous communities with an active role in aiding the provenancing process and supporting unprovenanced ancestral remains.

The Australian government has recognised the perplexing issues that unprovenanced ancestral remains have caused for both repository institutions and Indigenous communities in general. In an attempt to ensure that as many ancestral remains are returned to a specific community or state-wide Indigenous organisation, in April 2015 the government issued a broad-scope information document providing relevant data and guidance for Indigenous communities, individuals, and organisations, which may assist them when considering and conducting further research into ancestral remains, if they so desire (see Appendix 14). The *Information for Communities: Scientific Testing on Indigenous Ancestral Remains* document details a brief summary of the contentious history surrounding the unethical collection and scientific testing previously conducted on Australian Indigenous remains, providing communities with an insight into this dilemma which may not have been previously known. Though the benefits of additional scientific testing to determine provenance, such as DNA, are addressed, the document maintains the necessity of acquiring community or custodial approval before any testing may occur. However, this approval is irrelevant to

[190] Hanchant, D., (2002); Hubert, J., Fforde, C., (2005); Pardoe, C., (2013, pp. 745–747).
[191] Fforde, C., 'Provenancing Indigenous Human Remains for Repatriation', *Intellectual Property Issues in Cultural Heritage*, 20 January 2016, [Video file], <https://www.youtube.com/watch?v=C4dnSdRj_bI> [accessed 07/03/16].

remains with no known state or region of origin. One point highlighted within the paper surrounds the financial cost which additional invasive testing would require, stating:

> The Indigenous Repatriation Programme does not provide funding to undertake any invasive research of ancestral remains unless specifically requested from the Traditional Owners and any living relatives from the Indigenous community from which the remains originate. Even then, extensive permission/consent would need to be sought before any testing could be considered.[192]

This above statement reiterates the problematic issues of unprovenanced ancestral remains by inhibiting the possibility of additional testing due to government funding restrictions. While it may seem unlikely for the Australian government to continuously provide the necessary funds and resources for additional invasive testing of all global individual cases of unprovenanced ancestral remains, the government's proposed plans for the development of a National Keeping Place to serve as a repository for unprovenanced remains is suggested as an alternative and less invasive solution.

To prove the benefits of scientifically testing the analysis of standard bone collagen stable carbon and nitrogen isotopes, a number of South Australian human remains which were classified as being unprovenanced within the South Australian Museum collection were submitted for analysis in an attempt to address the utility of these methods in the establishment of a specific geographical locality of origin.[193] Through the use of comparative samples of carbon and nitrogen isotopes, and standard isotopic ranges from known localities, a probable geographical location of origin was established.[194] As a stable isotopic analysis will only be able to establish a general regional locality for unprovenanced remains, Pate et al. highlight that the connection between the broad geographical zones and contemporary Aboriginal territorial boundaries or landscape associations must be

[192] Australian Government, 'Information for Communities: Scientific Testing on Indigenous Ancestral Remains', op. cit., p. 4.
[193] Pate, F. D., et al., op. cit., p. 1.
[194] Ibid., p. 2.

determined on a case-by-case basis.[195] Though focused on South Australia, they have noted that in some cases a correlation between broad geographical zones and Aboriginal community boundaries could be established and provenance applied.[196] Pate et al. suggest that the application of this specific technique in South Australia would be improved by an expansion of stable isotope data for prehistoric Aboriginal populations from known geographical localities.[197] In essence, this technique could be applied on a larger scale, and within each Australian state, as stable carbon and nitrogen isotopic analysis provides an independent means of addressing the geographical origins of ancestral remains, which can supplement other methods such as DNA analysis.[198] Even so, it is highlighted that to achieve greater precision in skeletal assignment to geographical locality through isotopic analysis, the use of both bone and tooth samples, in addition to a combination of a number of different isotopes, needs to be examined and applied.[199] This is perhaps a technique that would prove ineffective on cremated ash bundles. With permission granted by the Narrinjerri Heritage Committee to access the Swanport archaeology collection, Pate et al. were able to acquire bone samples in order to conduct their research and examine the possibility of using bone collagen stable carbon and nitrogen isotope analysis in determining geographical localities for unprovenanced remains, subsequently aiding the Narrinjerri Heritage Committee in provenancing many remains.[200]

Though the use of various invasive scientific techniques is ultimately beneficial in unlocking the origins of unprovenanced remains, the inability to acquire the necessary permission from an associated community or organisation to use this testing hinders any possibility, both at present and in the future, of a burial. Due to this, an alternative respectful approach and dignified solution must be established.

[195] Ibid., p. 3.
[196] Ibid.
[197] Ibid., p. 4.
[198] Ibid., p. 1.
[199] Ibid., p. 4.
[200] Ibid., p. 5.

Conclusion

As an integral component of the repatriation process, the establishment of a known community of origin provides communities with the knowledge that the remains are indeed their 'kin', and their cultural obligation in the interment of ancestral remains within community boundaries can be fulfilled. It is undeniable that scientific analysis has not only aided the progression and understanding of human evolution, but also provided extensive insight into the biodiversity and genealogy of the past. Even with the promise of technological advancements, which theoretically may provide additional insight into the life of the ancestral remains and the communities from which the ancestors derive, including diet, diseases and community movements, these advancements are many years in the making and, in respect of testing, may ultimately prove detrimental to the integrity of the remains. Furthermore, in restricting the possibility of their return as a means of providing the opportunity of acquiring additional knowledge through conducting tests in the name of global benefit, the consideration itself served to emphasise the dominance of Western society over the Australian Indigenous populous and their cultural needs. Only in the continuous acceptance and acknowledgment of not only the cultural obligations which Australian Indigenous people ascribe to their 'kin' but also the cultural significance of their 'Country' and land in the construction of their identity and spirituality can public, institutional and governmental attitudes be redefined and, consequently, policies reconfigured.

Previous opposition from Australian Indigenous communities towards any additional scientific testing has been strong. However, in recent years, and with the problematic situation of unprovenanced remains looming over museums and Indigenous communities, consideration towards the use of scientific analysis in conjunction with community cooperation has been initiated. Even so, for remains 'lost' in respect of their community and 'Country', the question still remains as to who holds the authority to make decisions on their behalf and to take on the responsibility and repercussions when permitting invasive testing. Due to these difficult ethical considerations, museums, specifically within Australia, have rightly focused their attention towards remains which have a more definitive

community of origin. Nevertheless, the administration of various provenancing projects and committees has proven influential in the provenancing of many ancestral remains with little to no known provenance, as well as the re-provenancing of repatriated remains.

Although Australian museums have the necessary resources and access to communities to aid in their search for provenance, UK museums, unfortunately, do not, relying on scientific records, archival documents, and databases to uncover additional information which may illustrate provenance or means of prior acquisition. With the focus primarily administered on the provenancing and repatriation of remains which hold a known regional or state locality or origin, the growing number of repatriated unprovenanced Australian Indigenous human remains from UK and Australian museums has initiated the need for an alternative solution to be taken into consideration. It is perhaps through continuous collaboration between both UK and Australian museums and the Australian Indigenous people that the cultural integrity and safekeeping of these ancestral remains can be ensured.

Chapter Four:

Establishing a National Resting Place in Australia for Indigenous ancestral remains

I support a National Keeping Place because I believe that we need to reclaim our ancestors and provide them with a memorial to ensure they are remembered with the dignity and respect that has not been shown to them in the past.[1]

(Quote from a respondent to the ACIR 2013 Discussion Paper Survey or Consultations)

Introduction

In 2013, the Australian government's Advisory Committee for Indigenous Repatriation (ACIR) on human remains initiated a survey pertaining to the possible establishment of a National Keeping Place (NKP) within Australia. The decision behind the proposal of an NKP stemmed from the increasing number of unprovenanced Australian Indigenous ancestral remains within national museum collections, and the growing need to find an appropriate solution to their resting. This chapter will examine not only the committee's decisions behind the initial call for Australian Indigenous input in relation to the long-term care and management of these unprovenanced ancestral remains, but also the ACIR's survey which was sent out to Australian Indigenous communities and institutions throughout the country, providing important feedback which was included in its 2014 report. This chapter will also draw on the various options designated by the ACIR for Indigenous communities to consider in their deliberations of the NKP, including its form, function, and specifically its location. Further analysis will

[1] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 10.

examine the initial name proposed for such a facility and its subsequent amendment, examining the connotations surrounding 'National' and 'Keeping' when designating such a place specifically for the Australian Indigenous people and their ancestors within the Australian landscape.

While the predicament of unprovenanced ancestral remains is, at this point in time, a dilemma predominantly concerning Australian museum staff and repatriation teams or organisations, community involvement, consultation and cooperation with museums still remain paramount. That being said, this chapter will include opinions of members from the various communities who participated in the ACIR's 2013 Discussion Guide and Survey, as well as opinions of various scholars and museum staff within Australia. Their input is necessary in order to ascertain and consolidate their individual thoughts regarding the validity of an NKP and its proposed purpose and function for the Australian Indigenous people and the spirits of their repatriated ancestors. Moreover, as the NKP is merely a proposed solution from the ACIR, alternative possibilities that were presented within the 2013 Survey and Discussion Guide will be examined, with the validity of these alternative options considered in relation to both museums and Australian Indigenous communities.

Why establish a National Keeping Place?

As previously discussed in Chapters One and Two, efforts to repatriate many Australian Indigenous human remains back to their 'Country' and community of origin have been achieved, with the safe reburial of over thirteen hundred Australian Indigenous ancestral remains from national and international institutions.[2] There are, however, a concerning number of remains which, due to their lack of known provenance, are forced to stay within the confines of Australian museum storage or in other museums and institutions around the globe. It is these unprovenanced skeletal remains which the ACIR believes should

[2] Australian Government, 'Closing the Gap: Prime Minister's Report 2017', *Department of the Prime Minister and Cabinet*, Canberra, 2017, p. 16.

be relocated to a designated NKP.[3] The ACIR's *National Resting Place Discussion Paper*, which was published following the national survey (see Appendix 15), highlights the necessity for a solution and final resting place to be established so as to house these unprovenanced Australian Indigenous ancestral remains.

Today, most of the repatriated remains from international and Australian museums and institutions, which have little to no known provenance, have been placed under the care and temporary custodianship of eight governmentally appointed state museums, as discussed in the previous chapter. While these appointed institutions are equipped with the necessary tools and facilities to properly care for and maintain these ancestral remains with the utmost respect, the ACIR, nevertheless, reiterates that the prolonged storage of these ancestral remains within museum collections is detrimental to both the remains and the institutions.[4]

After examining and exhausting all available non-invasive resources in order to determine provenance, and with current ethical predicaments and limitations surrounding the use of invasive scientific testing on unprovenanced ancestral remains, without previously acquired community approval, it is unlikely that unprovenanced ancestral remains will ever be returned to their specific community of origin. Consequently, consideration towards the long-term care and management of these remains must be instigated.[5] At present, the ACIR has yet to mention the technicalities of how these remains will be laid to rest within the NKP. However, their efforts to initiate a solution are evident and a step in the right direction. Moreover, while the specifications of the facility itself are also yet to be confirmed, the establishment of an NKP does, nevertheless, provide a plausible solution for these remains.

[3] Australian Government, 'Discussion Paper & Survey: A National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with No Known Community of Origin', *Department of Regional Australia, Local Government, Arts and Sport, Office for the Arts*, Canberra, 2013, p. 3.
[4] Ibid.
[5] Ibid.

As described by the ACIR, the main purpose and function of the NKP is to facilitate a solution for the respectful storage of the numerous Australian Indigenous human remains with no known 'Country' or community of origin. While initiated with noble intentions, this may, however, be viewed to serve as a political tool with which to propagate the Australian government's desire for reconciliation and re-appreciation of the Australian Indigenous heritage and its people. The proposition of the NKP as a tool for reconciliation between Indigenous Australians and their non-Indigenous counterparts has recently questioned the Australian government's, and the Australian Prime Minister's, ultimate agenda for its construction. Daley's article in *The Guardian* highlights Tony Abbott's initial desire to spend millions of Australian dollars on constructing a national war cemetery, similar in style to the Arlington Cemetery in Washington, D.C., within Canberra. Daley highlights that during the same week in which the ACIR expressed its recommendation for an Australian Indigenous keeping place to the Australian government, Abbott announced his desired proposition for an Arlington-style cemetery for fallen Australian servicemen and women.[6] Abbott outlined that the cemetery would serve as 'something to remember and with a lasting legacy, so that this generation has appropriately honoured the sacrifice, the service, and the achievements of our mighty forebear[er]s'.[7] Abbott hoped that the establishment of a national war cemetery would allow ex-soldiers to be commemorated for their services to their country. However, the proposition failed to gain the support that Abbott desired, with various committees and individuals feeling that taxpayers' money should be utilised more effectively.[8] At this point in the ACIR's initial proposed report of 2014, Abbott could have promoted his support for Australian reconciliation through initiating the redirection of the millions of Australian dollars that he apparently was willing to spend on what he referred to as 'Australia's Arlington' to a much needed NKP for the hundreds of Australian

[6] Daley, P., 'The bone collector: a brutal chapter in Australia's past', *The Guardian*, 14 June 2014, <http://www.theguardian.com/world/2014/jun/14/aboriginal-bones-being-returned-australia> [accessed 11/11/16].
[7] Peake, R., 'Abbott flags Arlington-style National war cemetery for ACT', *The Sydney Morning Herald*, 18 October 2013, <http://www.smh.com.au/national/abbott-flags-arlingtonstyle--national-war-cemetery-for-act-20131018-2vrvm.html> [accessed 11/11/16].
[8] Ibid.

Aboriginal and Torres Strait Islander ancestral remains whose community of origin is still unknown.[9]

Abbott's later apparent shift in decision could be attested to the PM's desire to appear favourably towards Australian Indigenous issues and the Australian Indigenous public. However, one wonders whether the decision behind the initiation of an NKP was fuelled purely by the government's aim to appear favourably in the public eye by highlighting their sympathies and concerns in respect of current Australian Indigenous inequalities, or if there was an alternative motive. This is, however, not the first time the Australian government has proposed the need for the establishment of an NKP. In 1997 and 1998 the Aboriginal and Torres Strait Islander Commission (ATSIC), Museums Galleries Australia, and the Department of Commission conducted a consultation with members from Northern Australian communities in Canberra regarding the need for an NKP.[10] During these consultations, Hanchant suggests that it became apparent that all parties were not going to reach an accord regarding where the Keeping Place was to be constructed or who should be on the management committee.[11]

Phil Gordon, Aboriginal Heritage Project Officer from the Australian Museum in Sydney, and Lynda Kelly, Head of Learning at the Australian National Maritime Museum in Sydney, both acknowledged that Keeping Places serve a practical function, allowing Australian Indigenous communities and museums to respond to a wider range of cultural issues and concerns, including cultural material, conservation and display.[12] Deanne Hanchant-Nichols, a consultant in Aboriginal and Torres Strait Islander Employment and Development at the University of South Australia, highlighted that without the establishment of a Keeping Place

[9] Daley, P., 'The bone collector: a brutal chapter in Australia's past', T*he Guardian*, 14 June 2014, <http://www.theguardian.com/world/2014/jun/14/aboriginal-bones-being-returned-australia> [accessed 11/11/16].
[10] Hanchant, D., 'Practicalities in the return of remains: the importance of provenance and the question of unprovenanced remains', in Fforde, C., et al*.,* (2002), op. cit., p. 315.
[11] Ibid.
[12] Gordon, P., Kelly, L., 'Developing a community of practice: museums and reconciliation in Australia', in *Museums, Society, Inequality*, Sandell, R., (ed.), Routledge: London, 2002, p. 165.

which is governed by an Australian Indigenous representative, unprovenanced remains returned to Australia could, if really necessary, have scientific research carried out upon them, as there is currently 'no-one to ask'[13] or say otherwise. Hanchant-Nichols believes that this should not be the case, and permission from an Australian Indigenous body must be ascertained in order for further research to be carried out.[14] This would ultimately omit unprovenanced remains from any additional testing and render their scientific value unattainable. Current museum policies and ethical regulations have been implemented so as to limit the possibility of conducting scientific tests without prior community consent being provided, as previously discussed in Chapters Two and Three. However, unprovenanced remains of a significant age, such as the Lake Mungo remains, have been subjected to scientific investigation not only due to the wealth of insight that they may provide to Australian Indigenous communities within the area, but also for understanding the evolution and migration paths of early humans.[15] Debate was extensive between local Indigenous groups who desired the return of the remains and a group of scientists who favoured the maintained preservation of the remains within the museum's custody for future generations. Ethical codes of conduct were instilled and a compromise met with the proposed return of the Lake Mungo Man to the community affiliated to the location wherein the remains were initially found,[16] to be reburied in November 2017 within a repository or Keeping Place.[17]

The National Congress of Australia's First Peoples[18] gave its opinions regarding the ACIR's Discussion Paper and Survey, showing unanimous support for the

[13] Hanchant, D., 'Practicalities in the return of remains: the importance of provenance and the question of unprovenanced remains', in Fforde, C., et al., (2002), op. cit., p. 315.
[14] Ibid.
[15] Bowler, J. M., et al., (1970); Bowler, J. M., Thorne, A. G., (1976).
[16] Smith, C., Burke, H., 'In the Spirit of the Code', in *Indigenous Archaeologies: A Reader on Decolonization*, Bruchac, M. M., Hart, S. M., Wobst, H. M., (eds.), Routledge: London & New York, 2016, pp. 106–108.
[17] Henry, L., Tribe, M., 'Mungo Man set to return home by November 2017', *ABC Mildura Swan Hill*, 2 June 2016, <http://www.abc.net.au/news/2016-06-02/mungo-man-return-date-november-2017/7472410> [accessed 20/06/2017].
[18] The National Congress seeks to address the governance concerns that plagued the final years of the ATSIC (abolished in 2005), attempting to build a new type of national representation for Australian Aboriginal and Torres Strait Islander peoples that builds on the enormous, albeit underutilised, strengths of Australian Aboriginal and Torres Strait Islander communities, peak bodies and service

ACIR's decisions and its measures with which to reinstate ancestral remains with their rightful custodians.[19] Moreover, the National Congress suggested that in the case wherein it is not possible to specify the community of origin to which the ancestral remains belong, collectively hosting them as 'one community' in a 'broader homeland', as outlined in the discussion paper, is an appropriate outcome.[20] As such, an NKP that respectfully acknowledges and honours all Australian Aboriginal and Torres Strait Islander peoples, past and present, is the appropriate facility for the care of unprovenanced ancestral remains.[21]

While it is true that there are many benefits to establishing an NKP within Australia, there still, however, remain some fundamental questions, such as funding and access, which have yet to be answered by the ACIR. Nevertheless, the establishment of an NKP does promote a sense of closure, not only for the communities affected, but also for the ancestral remains themselves. Phil Gordon additionally emphasised the overall cultural benefit of an NKP, highlighting that it would allow communities to take control of the repatriation process and would allow them to find a place in which they can deal with and talk to Aboriginal people in Australia.[22]

Previous ACIR committee co-chairs Ned David and Lynette Shipway both recognised the intricacies and the extent to which this issue has been deliberated, reiterating the need for and importance of these discussions:

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delivery agencies. It also seeks to engage the very best minds across Indigenous Australia. The congress model aims for a form of representation that advances the national interest in the name of all Australian Aboriginal and Torres Strait Islander peoples rather than on the basis of sectoral, family or other discrete interests (Maddison, S., Brigg, M., (eds.), 'Reading 15: National Congress of Australia's First Peoples – National Congress', *Working with Indigenous Australians*, 2011, <http://www.workingwithIndigenousaustralians.info/content/Resources_2_Readings_15.html> [accessed 15/05/17].

[19] National Congress of Australia's First Peoples, 'Discussion Paper for a National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with No Known Community of Origin', *Office for the Arts Australia*, September 2013, pp. 2–3.

[20] Ibid., p. 3.

[21] Ibid.

[22] Gordon, P., 'Advisory Committee for Indigenous Repatriation', Department of Regional Australia, Washington, D.C., *Indian Affairs Media*, 15 August 2013, <https://www.youtube.com/watch?v=sBoiAPvX2FM> [accessed 07/03/16].

> A National Keeping Place should be sacred, symbolic and bring closure for ancestors so that their dignity is recognised and they can be laid to rest in peace in their broader homeland as one family, one community and not forgotten.[23]

The Advisory Committee for Indigenous Repatriation and Australian museums

From discussions with Lindy Allen[24] and Michael Pickering,[25] it is apparent that, at the time of the interviews, the ACIR had not been directly liaising with Australian museums, specifically any of the eight appointed museums that the Australian government and the Office for the Arts had designated as temporary 'custodians' of repatriated Australian Indigenous remains, as examined in Chapter Two.[26] Therefore, a key question to consider is why various museums within Australia would happily hand over the remains without knowing the full extent and function of the NRP within Australia, and what the place will represent and mean for both living Australian Indigenous communities and the ancestral remains themselves. Nevertheless, ACIR co-chair Ned David said:

> As sensitive as this issue is, we have done our very best to keep all of the stakeholders fully informed on the proposal to locate a national keeping place in Canberra. Our report will be finalised in coming weeks and will then be given to the government.[27]

It is perhaps the ACIR's desire to focus intently upon the needs and opinions of Australian Indigenous communities surrounding the future of unprovenanced ancestral remains, which should rightly be the case. Nevertheless, as many of the national museums in Australia have cared for, maintained and repatriated Australian Indigenous ancestral remains within their custody for many years, it

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[23] Danby, M., 'Consultation begins for national keeping place for repatriated ancestral remains', *Michael Danby MHR*, 7 June 2013, <http://www.danbymp.com/press-releases/1922-consultation-begins-on-national-keeping-place-for-repatriated-ancestral-remains-.html> [accessed 11/11/16].
[24] Lindy Allen, Interview, Melbourne Museum, Melbourne, 10 December 2014.
[25] Dr Michael Pickering, Interview, National Museum of Australia, Canberra, 7 December 2014.
[26] At the time of conducting various interviews in Australia (December 2014), the ACIR had not consulted with Museum Victoria, the National Museum of Australia or the South Australian Museum.
[27] Daley, P., 'We need a national keeping place for our 'lost' Indigenous remains', *The Guardian*, 24 October 2013, <http://www.theguardian.com/world/2013/oct/24/we-need-national-keeping-place-for-lost-Indigenous-remains> [accessed 11/11/16].

would subsequently seem appropriate for the ACIR to embrace and consider opinions from museums regarding the establishment of an NRP, the function that it should hold, and the permanency of the remains within such a facility. It is apparent that many national Australian museums have, in the past, long before the establishment of any repatriation committees, taken their own initiative to provenance and return remains to their appropriate communities. They have demonstrated dedication which has provided these institutions, and staff, with an unprecedented level of knowledge and experience in working with Australian Indigenous communities and repatriation procedures. In addition, through seeking advice from museum staff and repatriation teams, the ACIR and, subsequently, the Australian government would be made aware of any previous concerns brought to light through previous repatriations conducted. These concerns could include communities who feel ill-equipped to conduct traditional mortuary practices, communities who fear the acceptance of unprovenanced remains interred on their land, or internal community conflict surrounding the approval of DNA testing, and the need to construct reburial ceremonies. This is a wealth of extensive knowledge and diverse experience, readily available, that would prove highly advantageous to the ACIR in their deliberations surrounding the construction of an NRP.

The implications of the term 'National Keeping Place'

A particular concern which may have been overlooked by both the ACIR and the Australian government is their use of the word 'National' when determining the initial name and label of the Keeping Place. In a general sense, the term 'National' is inclusive of the country as a whole, incorporating all citizens within Australia. However, the term 'National' cannot be applied without the notion of questioning one's own identity and culture. Though applied to serve as a method of unifying the population, James McAuley (1962) remarks:

> This recurrent anxiety to discover and affirm what it is to be an Australian – to define a distinctive national ethos and type – to set up Australianity and an identifiable quality and merit – reminds us

> that Australia is largely a nineteenth century creation, and therefore congenitally diseased with nationalism…[28]

In her text entitled *Problematising Aboriginal Nationalism*, Martinez (1997) draws on the works of Benedict Anderson (1983) and Anthony Smith (1986), both of whom regard the nation as a 'modern' construct in order to generate a sense of nationalism.[29] In the construction of Aboriginal nationalism, Martinez acknowledges that, according to Anderson, post-colonial nationalism was not so much a reaction to colonialism or an extension of the colonising process, but rather argues that colonialism encouraged the spread of nationalism by introducing Australian Indigenous people to Western 'modernity' in the form of administration, education, increased mobility, and mass communication.[30] Anderson's definition points to a 'homogeneous Aboriginal nationality which neglects to recognise the distinct separation and identification of some five hundred Aboriginal communities, each distinct from the other, within pre-colonial Australia'.[31] This ultimately refutes the notion of a unified 'pan-Aboriginal' nation.[32] On the other hand, Martinez highlights Smith's approach, suggesting that nationalism relies on the 'rediscovery and revitalisation of ethnic ties and sentiments', which he argues involves tracing kinship ties, popular mobilisation, the elevation of religion, language and customs, and a rewriting of history in order to emphasise a unique collective past and destiny.[33]

Since the 1930s, Australian Aboriginals have sought acceptance and inclusion within the Australian 'nation' through the adoption of the English language and governmental legislation. While some might have accepted Western models of nationalism, others, however, have seen this as a betrayal of the spirit of Aboriginal culture.[34] Nevertheless, a postmodern understanding of nationalism, as highlighted by Martinez, would suggest that there is no need to eliminate cultural

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[28] McAuley, J., (1962, p. 122), quoted in *The Politics of Identity in Australia*, Stokes, G., (ed.), University of Queensland, Cambridge University Press: UK, 1997, p. 1.
[29] Martinez, J., 'Problematising Aboriginal Nationalism', *Aboriginal History*, Vol.21, 1997, p. 133.
[30] Ibid.
[31] Ibid., p. 135.
[32] Ibid., p. 136.
[33] Ibid., p. 134.
[34] Martinez, J., op. cit., p. 142.

diversity in order to achieve a sense of nationalism.[35] It is apparent that the importance of land or 'love of country' plays a particular role and function in the phenomenon of nationalism.[36] This concept is of particular relevance to Australian Aborigines in their unified fight for land rights.[37] In the last ten years, reconciliation has been encouraged by the Australian government, with cultural integration and respect playing vital roles in instigating an inclusive Australian national identity which still celebrate cultural diversity. Tonkinson remarks that within the late 1990s a pan-Aboriginal identity was 'embraced by most Australians of Aboriginal ancestry', while also acknowledging the diversity of Aboriginal communities and heritage.[38] Even so, the unity of Aboriginal Australians in their continuous fight for cultural recognition and equality has, however, highlighted the separation between Australian Indigenous communities and their non-Indigenous counterparts. Furthermore, the construction of their own flag, and the particular lack of iconographic similarities to those of the Australian national flag, serves to reinforce their cultural, and perhaps national, separation. What is of particular interest is the distinct rejection of the Union Jack, a symbol of British sovereignty and colonialism which is likely viewed by many Aboriginal people as a symbol of imperial oppression. For the Australian Aboriginal people, their connection with the land is reinforced through the composition and design of their own unique flag. Designed by Harold Thomas, a Darwin-based Aboriginal artist and Wompai/Luritja man, the flag was first flown in 1971 and later flown at the Aboriginal Tent Embassy in 1972.[39]

[35] Ibid.
[36] Ibid., p. 143.
[37] Lambert-Pennington, A. K., (2007); Hampton, R. F., Toombs, M., (2013).
[38] Tonkinson, R., 'National Identity: Australia after Mabo', in *Pacific answers to Western hegemony: cultural practices of identity construction*, Wassmann, J., (ed.), Berg: Oxford, 1998, p. 294.
[39] Bauman, T., Wells, S., Wells, J., *Aboriginal Darwin: A Guide to Exploring Important Sites to the Past and Present*, Aboriginal Studies Press: Canberra, 2006, p. 73.

[Fig. 6] The Australian Aboriginal flag, (1972), NAIDOC, *The Australian Government*.

In its composition, the colours used are culturally symbolic, with black representing Aboriginal people's past, present and future, red signifying Mother Earth and the red ochre used within many ceremonies, which is spiritually symbolic of their cultural connection with the land, and, finally, yellow representing the sun as the giver and re-newer of life.[40] The flag holds significant meaning for the Australian Aboriginal people, serving as a constant reminder of their endured hardships and as a symbol of their unity, strength and pride.[41]

That being said, the adoption of the term 'National' in the construction of a place specifically designed and designated for repatriated Australian Indigenous remains with no known provenance,[42] as stated by the ACIR, is misleading. To date, it remains unclear as to why the term 'National' has been used. It would seem more appropriate that the Keeping Place be named in respect of the Australian Indigenous people or, as some have suggested, simply a Safe Keeping Place. Perhaps, the reasoning behind the use of the term is the ACIR's and Australian government's desire to reconcile and unite both Indigenous and non-Indigenous Australians. Therefore, the intended use of the word may be applied as a political tool with which to highlight, re-identify and reaffirm the true original 'Nationals'

[40] Ibid.
[41] Ibid.
[42] National Congress of Australia's First Peoples, 'Discussion Paper for a National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with No Known Community of Origin', (2013); Australian Government, 'National Resting Place Consultation Report 2014', (2015, p. 20).

or 'First Peoples' of Australia. However, this may, in turn, inadvertently impose a sense of 'Otherness' which the Australian government has been attempting to amend through various acts of reconciliation and equality over many years, such as the 2008 public apology issued by acting Prime Minister at the time Kevin Rudd to the Australian Indigenous 'Stolen Generation',[43] as well as the Native Title Act 1993.[44] On the other hand, acknowledging the 'First People' of Australia would promote a sense of pride for the Australian Indigenous people, as well as provide ancestral remains with dignity and respect. Furthermore, the term 'National' binds the remains to their 'Homeland' in the absence of a community of origin. However, at this point in time, it is not known whether this is the intended decision.

In addition to the implications of the term 'National', the appropriateness of the word 'Keeping' should also be questioned, as this denotes ownership and authority over the remains. Moreover, the inclusion of the word 'Keeping' implies that the remains, which will be housed within a specifically established place, will no longer be accessible or transferred to a community if provenance is later established. Moreover, the notion of 'Keeping' the remains within an institutional unit or repository reflects notions of collecting and the authority of the institution over the remains. This terminology stems from eighteenth-century theories and

[43] Stolen Generation: Between 1910-1970, many Indigenous children were forcibly removed from their families as a result of various government assimilation policies. The generations of children removed under these policies became known as the Stolen Generations (Australians Together, 'The Stolen Generations', 2016, <http://www.australianstogether.org.au/stories/detail/the-stolen-generations> [accessed 30/12/16]).

[44] Native Title Act 1993: a law passed by the Australian Parliament which provides a national system for the recognition and protection of native title and for its co-existence with the national land management system. Initiated by the Mabo vs. Queensland, where the High Court found that pre-existing rights and interests in land held by Aboriginal and Torres Strait Islander peoples, native title survived the assertion of sovereignty by the Crown. The Native Title Act 1993 was therefore established to provide a framework for the protection and recognition of native title. The Australian legal system recognises native title where the expression native title or native title rights and interests mean the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, where the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples or Torres Strait Islanders; and the Aboriginal peoples or Torres Strait Islanders, by those laws and customs, have a connection with the land or waters; and the rights and interests are recognised by the common law of Australia (Australian Government, 'Connection to Country: Review of the Native Title Act 1993 (Cth): Final Report', (ALRC Report 126), *Australian Law Reform Commission*, Sydney, 31 March 2015, pp. 119–132).

practices of collecting, and has been historically associated with museums and intertwined within their history of acquiring objects of curiosity, as previously examined in Chapter One. In addition, the ACIR notes that museums were, and perhaps for the most part continue to be, perceived by Australian Indigenous communities to be the 'jailers' of their culture and people.[45] It is perhaps due to these underlying feelings towards museums that many Australian Indigenous /communities are hesitant to trust institutions to act in favour of their cultural beliefs and opinions. Even though 'Keeping' signifies an element of protection and care, the term, however, does not reflect a positive and respectful ideal. Variations such as 'Safe Keeping Place' and 'National Resting Place' have been suggested by differing communities and adopted by various Australian institutions, as they serve to evoke positivity and promote notions of respect and dignity, which the ancestral remains deserve, even if they cannot be buried within their original 'Country'. Furthermore, the term 'resting' expresses a sense of peace and tranquillity for the remains, which ultimately serves to reassure living descendants and communities that their ancestors are being respected. Moreover, 'resting' promotes the notion that the remains are in a temporary location and that this facility is merely a stepping stone in the ancestor's journey home, with future provenancing and technological advancements being a strong possibility in unlocking their affiliated community at a later date.

In the ACIR's 2014 report detailing the results of the various consultations and surveys conducted in 2013 regarding the establishment of an NKP, responses from Indigenous communities which participated indicated that such a poignant cultural repository should be called a 'National Resting Place' (NRP), rather than the previous term ('National Keeping Place'), which was allocated initially by the committee and supported by the Australian government.[46] Australian Indigenous communities supported their decision regarding the name change, highlighting that a 'Resting Place' would better distinguish this cultural place from that of a museum, as well as properly reflect its desired role.[47] While consultations within

[45] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 10.
[46] Ibid.
[47] Ibid.

Australian Indigenous communities are paramount to the establishment of an NRP,[48] consultations with relevant museum authorities within Australia are also necessary, as they are the ones who, at this time, act as temporary custodians of the various unprovenanced remains housed within their collections.

According to the ACIR's report, it hopes that the establishment of an NRP will act as a symbol and beacon of unity and reconciliation.[49] Through its proposed establishment within Canberra's landscape, the ACIR is optimistic that such a landmark will allow Indigenous Australians to feel proud of their identity and heritage. It would allow non-Indigenous Australians to recognise past injustices that the Australian Indigenous people have endured, and acknowledge Indigenous Australians as the 'First People' of their nation.

Peter Yu, a Yawuru Elder and National Museum council member, highlighted his feelings towards the establishment of an NRP, stating:

> It would become like a beacon of conscience, where it reminds us of the importance of history and what we can do to each other, but where we can learn from what we've done to each other...One of the problems with Australia is that we don't really recognise the true history of the country. It was a brutal history.[50]

It is true that the Australian government has, historically, aimed to cover up the injustices and inequalities inflicted upon Australia's First People. However, various attempts within the last twenty years have been made to rectify and reconcile the wrongs of the past. The Australian government, and specifically the ACIR and Aboriginal Congress, hopes that the establishment of an NRP will continue to remind the Australian community that Australian Indigenous people, both alive and deceased, matter and should be shown respect and dignity.

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[48] *From this point onwards, the term 'National Resting Place' (or NRP) will be used in place of 'National Keeping Place' (or NKP).

[49] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., pp.13–15.

[50] Daley, P., 'The bone collector: a brutal chapter in Australia's past', *The Guardian*, 14 June 2014, <http://www.theguardian.com/world/2014/jun/14/aboriginal-bones-being-returned-australia> [accessed 11/11/16].

In addition, the establishment of such a place would serve to strengthen Australian Indigenous communities through initiating the reclamation of their culture and identity within the public sphere.

Finding an appropriate location for the National Resting Place

One of the biggest concerns in the establishment of the NRP is its location. Location poses a particular predicament, as ensuring that ancestors are interred within their correct 'Country' or community of origin is a fundamental component in the repatriation of Australian Indigenous ancestral remains. Therefore, this strong Indigenous sense of identity which is tied to their land and community propels the need for living communities to ensure that ancestors are returned to their community and their spirits are allowed to join their kin in the afterlife and 'Dreaming'. This ultimately requires provenance to be established. That being said, due to the different Aboriginal territories and borders within Australia, both past and present (see Fig. 7), finding a 'neutral' location wherein there would be no spiritual repercussions for the interment of unprovenanced ancestral remains is highly problematic.

[Fig. 7] Indigenous community boundaries, 'The AIATSIS Map of Indigenous Australia', Horton, D. R., Aboriginal Studies Press, AIATSIS, 1996, *ABC*.

In response to the ACIR's 2013 Keeping Place Survey, the Office for the Arts published its approval of the establishment of an NRP within the country's capital,

Canberra, as it is politically and culturally influential for Indigenous Australians and would be amongst other 'national' Australian Indigenous facilities, such as the Aboriginal and Torres Strait Islander Cultural Centre. Though it is true that Canberra has been the playing field for many Australian Aboriginal and Torres Strait Islander campaigns, there still remains the concern for living Australian Indigenous communities within Canberra that may feel unsettled at the thought of unknown Aboriginal ancestral remains interred within their lands. Michael Pickering emphasised the importance and necessity of establishing provenance for communities, thereby ensuring no spiritual disturbance or unrest.[51] This fear of having outsiders buried on their lands is so great that many communities have refused the return of repatriated remains if there is any uncertainty as to the remains' exact provenance, entrusting the museum to take custody until a determined provenance can be established.[52]

It is apparent that the ultimate obligation for Indigenous Australians manifests both culturally and spiritually in the returning of their deceased ancestors to where they were born, as the soul cannot rest until the body is 'home'.[53] Even so, Pickering, an avid supporter of the repatriation programme in Australia, highlights that of the 725 sets of Aboriginal remains in the museum's collection, 434 cannot be provenanced, with the remaining 291 being held at the request of communities, or cannot be returned for other practical reasons.[54] These statistics are only from the National Museum of Australia. Thousands of additional ancestral remains, both unprovenanced and those requested by communities to be maintained within storage, are located within other museums and cultural institutions throughout Australia and overseas. Ned David highlights the extensive process in which the ACIR and Australian Indigenous stakeholders have partaken, hinting that these steps are merely the beginning in the goal of returning ancestral remains back to their 'Country' and community:

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[51] Dr. Michael Pickering, Interview, National Museum of Australia, Canberra, 7 December 2014.
[52] Ibid.
[53] Daley, P., 'We need a national keeping place for our 'lost' Indigenous remains', *The Guardian*, 24 October 2013, <http://www.theguardian.com/world/2013/oct/24/we-need-national-keeping-place-for-lost-Indigenous-remains> [accessed 11/11/16].
[54] Ibid.

> This has been a very long and exhaustive process. The next step, once our report has been given to government, will be for the government to respond to our recommendations in due time.[55]

As previously addressed in Chapter Three, due to the spiritual implications and weighted importance of community-specific burials and cultural interconnectedness with land and 'Country', finding a culturally appropriate and approved location for unprovenanced ancestors is paramount, while also ensuring that no spiritual unrest and conflict is caused for the community and ancestral spirits upon which the NRP is constructed. It is clear that there is no 'neutral' ground in Australia which has no tribal claim. The submission made by the National Congress of Australia's First Peoples (NCAFP), in response to the ACIR's 2013 Discussion Report and the National Keeping Place Survey, demonstrates its approval of the ACIR's suggestion of Canberra as an appropriate location, reinforcing that 'a location of national focus reflects the significance and honour that these remains deserve, and as such, agrees that Canberra may be an appropriate resting place for unprovenanced ancestral remains'.[56] Though it would seem that the NCAFP is in accordance with the ACIR, it does, however, recognise the need to support the majority view of the Australian Indigenous people, stating:

> Congress is of the view that if during the consultation process there was considerable opposition to the National Keeping Place being located in Canberra, further talks will need to be held with Aboriginal and Torres Strait Islander peoples and organisations, including Congress, to determine an alternative location to Canberra. If Canberra is ultimately chosen as the location for the National Keeping Place, the exact location should be chosen in close consultation with the local traditional owners.[57]

According to the ACIR's 2014 report, opinions on an exact location for the 'Keeping Place' were continuously divided during public consultations. Some community

[55] Ibid.
[56] National Congress of Australia's First Peoples, 'Discussion Paper for a National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with No Known Community of Origin', *Office for the Arts Australia*, September 2013, p. 4.
[57] Ibid., pp.4–5.

groups, particularly from Northern Australia, in the Kimberley and Launceston regions, felt strongly towards the allocation of the 'Keeping Place' within Central Australia and in proximity to Uluru, which holds great cultural significance to Australian Indigenous communities within the area.[58] This is curious because during the 1990s, Elders from the Kimberley region, as well as Uluru Elders, did not want unprovenanced remains to be buried in their 'Country', as they did not know whom they were or where they were from.[59] In addition, the ACIR acknowledges the strong traditional 'songlines'[60] which span the country, linking the many different Australian Indigenous communities to the centre of Australia.[61] The ease of accessibility for such a spiritual place was called into question, with many Australian Indigenous communities being based many hundreds of miles away.[62]

However, following additional ACIR consultations, the allocation of Canberra as a possible location for the NRP held the greater percentage of support. One of the main reasons behind this decision is the physical presence that such an institution or facility would serve in supporting and reminding the Australian government of their repatriation agenda and desire for reconciliation. Furthermore, it would provide a place of pride and focus for the Australian Indigenous people, allowing for the continued advocacy of the return of their lost ancestors in view of the Australian government. One of the possible benefits to which the ACIR is alluding with the establishment of such an auspicious place within Canberra concerns the

[58] Hanchant, D., 'Practicalities in the return of remains: the importance of provenance and the question of unprovenanced remains', in Fforde, C., et al., (2002), op. cit., p. 315.
[59] Ibid.
[60] *Songline(s): A songline is a track across the land, sky or sea following a journey of a Creation Ancestor. Songlines are recorded in Creation stories, songs, paintings and dance. A knowledgeable person is able to navigate across the land by repeating the words of the songs describing the location of landmarks, waterholes, and other natural phenomena. By singing the songs in the appropriate sequence, Indigenous people could navigate vast distances. Australia contains an extensive system of songlines, many that pass through multiple Aboriginal countries ('Glossary of Indigenous Australia Terms', *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-Indigenous-australia-terms> [accessed 15/05/17]).
[61] 'Glossary of Indigenous Australia Terms', *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-Indigenous-australia-terms> [accessed 15/05/17].
[62] National Congress of Australia's First Peoples, 'Discussion Paper for a National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with No Known Community of Origin', *Office for the Arts Australia*, September 2013, pp.4–5.

plausible career pathways and employment and training opportunities for Australian Aboriginal and Torres Strait Islander community members in relevant fields of work relating to repatriation, such as archival research, anthropology, and cultural heritage practices. Furthermore, a site in Canberra would be advantageous for staff recruitment and retention, as opposed to a remote location, as it may provide the possibility for up-to-date training for new recruits by current employees from various museums and institutions within the area.

Even so, Kimberley Elders at the Consultation Forum at Fitzroy Crossing emphasised their support for Central Australia as the potential location of the NRP, highlighting that both Alice Springs and Uluru are centrally located and, therefore, equally accessible for all traditional owner groups that wish to visit and pay their respects to their lost ancestors, affirming their opinions:

> Access for all Indigenous peoples to a National Keeping Place is required, it is therefore important for the site to be located in central Australia.[63]

A representative of the Desert Knowledge Precinct in Alice Springs reiterated his support for Central Australia, stating:

> Alice Springs is the home of many language groups and has great symbolism. The Desert Knowledge Precinct is also the middle of the regional economy. It is where WA, NT, SA, NSW and QLD meet in the middle. (Mr. Hampton, Desert Knowledge Precinct Representative)[64]

[63] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 14.
[64] Ibid.

[Fig. 8] Australian Indigenous population distribution (2011 census data), *Monash University*.

While there is still a large Indigenous community within Alice Springs, with the majority of communities located along the east coast of Australia, the placement of such a facility within Central Australia may restrict accessibility to the majority of the Indigenous community. On the other hand, a central location does allow for the equal opportunity for all communities throughout Australia to visit and pay their respects to the ancestral remains. It is important to note that accessibility is not the only consideration to take into account. With the encouragement of young Indigenous Australians towards attending university and striving for equality and a presence within contemporary Australia, an NRP within a remote location might not have the desired effect in acting as a space for preserving and educating future generations. Nevertheless, Central Australia could perhaps be considered a more historically accurate location, specifically for remains dating back to the 1800s, reflecting the remote landscape to which the Australian Indigenous ancestors were accustomed before their death and subsequent removal from 'Country'.

Due to the variation of opinion in respect of an agreed location, and the difficulty in representing and fulfilling the wishing of such a culturally diverse people, the ACIR reiterated the need to conduct further consultations so as to ensure that concerns are met. The ACIR detailed that the additional consultations resulted in

a positive outcome, with participants recognising the plausible benefits and basis for establishing the NRP in Canberra.[65] While Canberra is the desired location for such a momentous place of commemoration, the ACIR emphasised that no one cultural place is more significant or more relevant than another due to the cultural and spiritual connections which each Australian Indigenous person has with his or her 'Country' and Australia as a whole.[66]

The ACIR has remarked on the unanimous support which present Australian Indigenous communities within Canberra have expressed towards the proposed use of their land as a possible location for the establishment of such a facility. In addition, consultations were held with traditional owners from both the Ngunnawal and Ngambri communities within Canberra, wherein permission and support from community Elders and members were given.[67] With regard to the precise location of the facility within Canberra, the ACIR has deliberated, believing that the most appropriate location for establishing the NRP would be within the Parliamentary Triangle.[68] As previously mentioned, the presence of the NRP, within sight of Parliament House and under the gaze of Australia's leaders and government officials, would act as a constant reminder of both the horrors of the past and the move for reconciliation. In addition, as Canberra is the country's capital, and because the Parliamentary Triangle is the main point of interest for both national and international tourists, it would serve to enlighten and prompt reflection on the concept of repatriation on a larger and more global scale.

Shane Mortimer, the most senior Elder of the Ngambri people and a descendant of OnYong, whose skull was dug up and used as a sugar bowl,[69] says that the 'Keeping

[65] Ibid., p. 15.
[66] Ibid.
[67] Ibid.
[68] The Parliamentary Triangle* or Parliamentary Zone in Canberra is known as the ceremonial precinct of the country's capital, containing some of Australia's most significant buildings and memorials, such as: Parliament House, Old Parliament House, Lake Burley Griffin, Reconciliation Place, Australian War Memorial, etc.
[69] Daley, P., 'The bone collector: a brutal chapter in Australia's past', *The Guardian*, 14 June 2014, <http://www.theguardian.com/world/2014/jun/14/aboriginal-bones-being-returned-australia> [accessed 11/11/16].

Place' should be built where the Aboriginal Embassy[70] stands today.[71] Mortimer suggested:

> A national keeping place is something that has been thought about for many years – by Aboriginal people, by academics and others ... but the obvious place to have it is in Canberra ... it would allow Aboriginal people collectively to have ownership of this unprovenanced material, allow for the time and capacity to do the research to determine where it comes from. (Peter Yu, Yawuru Elder)[72]

In addition, Mortimer gives his opinion on the function that the 'Keeping Place' should have, focusing on the proposal for future scientific testing and the encouragement towards present and future Australian Indigenous generations taking action in recovering their ancestors:

> It should be a place to which Aboriginal people come to match DNA with the remains that are currently held at the national museum and elsewhere. It should also be a place where Aboriginal and non-Aboriginal Australians can come to commemorate those who died in the frontier war, because the war memorial absolutely refuses to tell that story.[73]

Encouraging communities to volunteer their DNA would ultimately aid in the provenancing process and in fast-tracking the repatriation programme by possibly uncovering the families and 'Country' of many ancestral remains still housed within institutions. In addition, by sharing Australian Indigenous DNA on a national and international scale, institutions throughout the world could help in provenancing Australian Indigenous ancestral remains from within their

[70] Aboriginal Embassy*, also referred to as the Aboriginal Tent Embassy, was constructed in 1972 by Indigenous activists as a protest for the recognition of land rights. Residing on the lawns of Old Parliament House, though not recognised as an official embassy, it is still functioning and acts as a constant reminder of the inequalities and struggles that Australian Aboriginal and Torres Strait Islander people have faced and continue to overcome.

[71] Daley, P., 'The bone collector: a brutal chapter in Australia's past', *The Guardian*, 14 June 2014, <http://www.theguardian.com/world/2014/jun/14/aboriginal-bones-being-returned-australia> [accessed 11/11/16].

[72] Daley, P., 'We need a national keeping place for our 'lost' Indigenous remains', *The Guardian*, 24 October 2013, <http://www.theguardian.com/world/2013/oct/24/we-need-national-keeping-place-for-lost-Indigenous-remains> [accessed 11/11/16].

[73] Daley, P., 'The bone collector: a brutal chapter in Australia's past', *The Guardian*, 14 June 2014, <http://www.theguardian.com/world/2014/jun/14/aboriginal-bones-being-returned-australia> [accessed 11/11/16].

collections, encouraging their release and ultimate return to 'Country'. However, in sharing their DNA on an international scale, maintaining ownership and authority over their DNA may prove difficult, with international scientists perhaps using these data for alternative intentions, rather than to aid efforts of provenancing remains.[74] This, in turn, may ultimately lead to future ethical concerns and issues relating to the need to repatriate DNA samples in addition to ancestral remains, as was the case for the Nuu-chah-nulth, Indigenous people of the northwest coast of Canada who struggled for twenty years to reclaim blood samples to which they had previously consented for scientific research.[75]

Possible form and function of the National Resting Place

At this point in time it still remains unclear as to the exact form and function that the 'National Resting Place' will have. The ACIR reinforces its strong belief that it should assume the form of a central repository unit which is managed by an Australian Indigenous association under a custodianship arrangement that ensures that the remains are restricted and secured for safekeeping.[76] While there are various proposed shapes which the repository unit may take, the ACIR has stated that it is open to suggestions, however highlighting and prompting options to be considered, such as a cemetery, memorial park, mausoleum, or cultural institution (see Appendix 15).[77] As the NRP is meant to serve as a final resting place for unknown ancestral souls, the ACIR is of a mindset that the NRP should take the form of, or be affiliated to, a cultural institution, allowing the possibility of future access. This decision does appear counterproductive, as the desired outcome is for the spirits of the repatriated ancestral remains to be released and at peace, rather than placed within an alternative repository to await future developments in provenancing techniques. Moreover, the ACIR has reaffirmed its

[74] Harry, D., 'Indigenous Peoples and Gene Disputes', *Chicago-Kent Law Review*, Vol. 84, No. 1, Art.8, 2009, pp. 147–196.
[75] Ibid., p. 188.
[76] Australian Government, 'National Keeping Place Discussion Guide', Advisory Committee for Indigenous Repatriation, *Department of Communications and the Arts*, Canberra, 2013, p. 4.
[77] National Congress of Australia's First Peoples, 'Discussion Paper for a National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with No Known Community of Origin', op. cit.

decision, suggesting that if Indigenous people's views change towards scientific analysis techniques which assist in determining a possible community of origin, housing the ancestral remains within a cultural institution or repository would permit future accessibility.[78] Even though future access allows for possible new developments in technology to aid in the provenancing of these remains, it does, however, question the purpose of establishing an NRP as a whole, the allocation of taxpayers' money for such an individual repository, and its ultimate role and function for both Australian Indigenous communities and the ancestral remains themselves. Additionally, there is a fear that in the construction of such a place, these ancestral remains will be shut away and made to spend the remainder of their time in a storage facility amongst other unprovenanced Australian Indigenous ancestors.

What the ACIR 2014 report underlined is the apparent complexities and differing opinions expressed by Indigenous communities throughout Australia when it comes to the establishment of such a sacred place. Due to the varying opinions on the function and form of the NRP, the committee suggested that the NRP consist of three distinct places within one site in order to reflect the different desired objectives. These three places are to take the form of a Resting Place for the ancestors, wherein spiritual connections can be made and contemplation undertaken by visiting Indigenous members, a ceremonial space in which Indigenous burial rites and associated ceremonies can be conducted, and a public space in which reflection and prominence of the issue can be shared.[79] Some of the various recommendations from the surveys and consultations expressed their desire for the Resting Place to have a strong connection to the land and their 'Mother',[80] suggesting outdoor gardens, perhaps designed to represent the differing Indigenous communities or represent the states. Another suggestion

[78] Australian Government, 'National Keeping Place Discussion Guide', (2013), op. cit., p. 5.
[79] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 1.
[80] The term 'Mother' (or 'Motherland'*) is employed by many Australian Indigenous communities to reinforce the connection that they, as Indigenous people, have with the land in which they live and from which they thrive, and which nurtures them like a maternal figure would. The term itself is more commonly acknowledged as 'Mother Earth' and the source of all its living beings and natural features ('Mother Earth', Oxford English Dictionary, <https://en.oxforddictionaries.com/definition/mother_earth> [accessed 15/05/17]).

detailed the use of natural resources in the construction of the 'Resting Place' in order to symbolise the maintained bond for the remains with the land, while enlightening visitors as to the unique Australian landscape.[81] In addition, one respondent suggested that the Resting Place be built underground, thereby symbolising the interment of the remains without the limitations of permanent burial.[82] This suggestion is favourable, as it would allow for future access to the remains for provenancing and would also provide communities with future access to remains requested to be stored within museums until the community is prepared for traditional interment. Furthermore, it would ensure that there is no spiritual unrest and upset, as well as any unintentional opposition towards the traditional cultural law of the communities which reside on the land upon which the Resting Place will be built.

As previously mentioned, the ACIR reiterated that while permission had been granted by the Elders of the Ngunnawal and Ngambri tribes for the proposed establishment of the NRP on their land,[83] in time, changes in opinion may occur and the ACIR and Australian government will be forced to suspend the construction of the NRP and search for an alternative location or solution. It is therefore paramount that all stakeholders be aware of each stage of the proceedings in the establishment of the repository, and that maintained access to determine provenance be possible. Even so, the ACIR has recommended that the extent to which further research is undertaken so as to establish provenance should be a matter considered by the governing body of the Resting Place, taking into account prevailing community opinions.[84]

The NCAFP acknowledged:

> …due to the diversity of Aboriginal and Torres Strait Islander cultures, determining the exact form of a National Resting Place will be difficult. Of particular importance is ensuring that the National Resting Place provides Aboriginal and Torres Strait

[81] Ibid.
[82] Ibid.
[83] Both of these communities are located near Canberra.
[84] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 1.

> Islander peoples with a sense of trust that their ancestral remains are being cared for in a culturally appropriate and respectful manner. To achieve this goal, it is critical that the form of a National Keeping Place is developed in close partnership with Aboriginal and Torres Strait Islander peoples.[85]

National Resting Place: taking the form of a storage facility/cultural institution

If the remains were to be stored within a cultural institution, they would be provided with the appropriate care and maintenance to ensure their longevity and preservation. However, would such a repository be viewed by community members as culturally appropriate for providing ancestral remains with a place which invokes a sense of peace and rest? More importantly, is the decision for the NRP to take the form of a storage facility or cultural institution truly representing the opinions of the Australian Indigenous community as a whole? These are questions which must be acknowledged and answered by the ACIR and the majority of the Australian Indigenous community. What is apparent, at this time, is the ACIR's desire to keep these remains within an institution. This decision to move the remains from one institution to another may be viewed by various academics and museum authorities as detrimental to the desired overall outcome of repatriation, and may cause further distress to the remains and ancestral spirits. Nevertheless, the storage of the remains within a cultural institution would allow for the proper care of the remains, ensuring that they are honoured and respected whilst they remain within the custody of the institution. The NCAFP reiterated its support for a cultural repository, specifically one which is managed in line with Australian Aboriginal and Torres Strait Islander values, beliefs and ceremonial systems and by Australian Aboriginal and Torres Strait Islander peoples,[86] which, due to its suggested location in Canberra, would be associated with current Australian Indigenous cultural facilities and institutions, such as the

[85] National Congress of Australia's First Peoples, 'Discussion Paper for a National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with No Known Community of Origin', *Office for the Arts Australia*, September 2013, p. 4.
[86] Ibid.

Australian Institute of Aboriginal and Torres Strait Islander Studies and Reconciliation Place. Furthermore, it is the NCAFP's opinion that a cultural institution which offers protection for unprovenanced ancestral remains in a culturally sensitive manner would provide the appropriate space in which to honour their symbolism in Australia's history.[87] The NCAFP additionally emphasised that a cultural repository would benefit the greater public by providing a space which could serve to educate both Australian Aboriginal and Torres Strait Islander peoples and a wider audience as to the importance of these ancestral remains.[88] Congress has stated that it welcomes such a facility that educates people as to the way in which unprovenanced ancestral remains came to be held in an NRP, highlighting the past injustices and acknowledging the construction of an NRP as a physical platform for reconciliation and healing.[89] Furthermore, the committee believes that, in addition to general public awareness, an NRP could work with a revitalised and expanded Australian Institute for Aboriginal and Torres Strait Islander Studies, providing:

> …ongoing education about the injustices of the past, the diversity of Indigenous [our] cultures, and the resilience and strength of Indigenous [our] peoples.[90]

The placement of the remains within a repository unit would allow for further research and analysis, specifically in relation to archives, to aid in the possible establishment of provenance when technology and science remain ineffective or unethical. It is undeniable that additional research would aid in the overall understanding of communities which no longer exist within contemporary society, providing immeasurable insight into the complexities of Australian Indigenous communities and heritage to both Indigenous Australians and the greater public. Moreover, a cultural institution which is led by an Australian Indigenous association would ensure that it plays an integral role in the provenancing and decision-making process with regard to ancestral remains.

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[87] Ibid.
[88] Ibid.
[89] Ibid.
[90] Ibid.

In an interview, Pickering highlighted the various concerns amongst many Australian Indigenous communities surrounding the spiritual unrest and fear of placing unknown ancestral remains within their community barriers.[91] Pickering recounts a particular event wherein Indigenous Australians did not want to handle the unknown ancestral remains stored within the museum for fear of disrespect or spiritual disturbance.[92] Pickering, however, being non-Indigenous, was able to handle the remains without fear of any spiritual repercussions.[93] This is a clear demonstration of the various roles that Indigenous and non-Indigenous Australians can play when provenancing and handling such ancestral remains, and the importance of working collectively.

Though the ultimate goal is the return of ancestral remains to the earth, many communities were torn throughout the decision-making process, with many supporting the function of the Resting Place for further provenance research and repatriation activities.[94] Others, who supported the initial reburial of remains, stressed the importance of giving the ancestral remains a resting place and not leaving them within a museum storage facility.[95] While these opinions and concerns are both valid, it is clear that the underlining goal of the repatriation process lies in the ultimate return of ancestral remains to their 'Country'.

Even though there was support for various memorials, the establishment of individual Resting Places within each state, or maintaining the care of the remains within each state's national museum, the ACIR committee is of the belief that establishing one national place for all ancestral remains with little to no known provenance would reduce the need for multiple facilities to be maintained throughout Australia's museums, and enable more information to be collected centrally that could continuously help to provenance the remains.[96] Furthermore,

[91] Dr. Michael Pickering, Interview, National Museum of Australia, Canberra, 7 December 2014.
[92] Ibid.
[93] Ibid.
[94] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 27.
[95] Ibid.
[96] Ibid., p. 11.

the decision for the construction of one unit, rather than many throughout the country, may be due to limited resources and funding available from the Australian government for such an expensive venture, which would alternatively be delegated to each individual state.

The placement of unprovenanced remains within a designated existing cultural institution or newly developed Australian Indigenous museum, would allow for Indigenous ancestral remains to be safeguarded within a state-of-the-art facility, respected, and provided with the possibility for future provenancing. A standalone storage facility would ultimately serve the purpose of ensuring the remains are culturally respected and cared for to museum standards. This facility would further provide the possibility for museum staff, community members and provenancing specialists to work in partnership through the process of provenancing ancestral remains within the institution's care and encourage an objective solution for the possible repatriation of ancestors back to 'Country'. However, an institution which solely functions as a repository would not necessarily serve to emphasise and translate similarly to both the Indigenous and non-Indigenous public in Australia of the cultural and ethical reasons why repatriation and establishing provenance for ancestral remains is so important to Australian Indigenous communities. It would therefore seem more appropriate for a repository to be constructed in association with an educational space or memorial museum which strives to represent and commemorate the ancestors who's remains lie in 'limbo' awaiting to be identified and returned home.

Memorial museums have traditionally served as spaces to commemorate historical suffering, to evoke the memory of past times where visitors are confronted with reflective content which questions their own identity and moral compass based on their cultural and educational background or personal connection with the displayed subject.[97] The development of memorial museums which specifically focus on violence, genocide, and the abuse of human rights serve to reflect the public demand for the maintained preservation and memorialisation

[97] Williams, P., *Memorial Museums: The Global Rush to Commemorate Atrocities*, Berg: New York, 2007, p. 132.

of these heinous atrocities.[98] The 'global proliferation' of memorial museums within the second half of the twentieth century, is argued by Sodaro to be a result of a broader interests in the past, and how society relate to the memory of the past by 'coming to terms' with previous violence and oppression endured by society in general or minority groups.[99] Memorial museums in practice are ultimately designed to translate the suffering and atrocities of the past into ethical commitments and educational warnings to help ensure a better future.[100] These museums are therefore meant to be inclusive 'truth-telling' spaces where the past can be openly confronted, researched, discussed, and debated by its many visitors.[101] While generally 'neutral' education spaces for peaceful commemoration, some memorial museums can be used as political tools, with institutions promoting their own agendas and cultural ideologies which, according to Sodaro, can ultimately compromise the desired aim and efforts of such facilities to openly confront and learn from past events.[102]

As Australian Indigenous autonomy and reconciliation are concepts which are heavily promoted and recognised by the Australian government and the Australian public, providing and institution which works to recognise the difficulties and endurance of the Australian Indigenous people in an open and honest manner, while also promoting their cultural diversity and heritage in a space for cross-cultural discourse would prove highly beneficial. By providing an institution which not only facilitates the storage of unprovenanced remains and which is administered by an Australian Indigenous body, this would ultimately ensure that authority in the decision-making process surrounding the repatriation, treatment and care of ancestral remains within their custody it given back to the Australian Indigenous people.

[98] Sodaro, A., *Exhibiting Atrocity: Memorial Museums and the Politics of Past Violence*, Rutgers University Press: New Jersey, 2018, p. 4.
[99] Ibid., p. 18.
[100] Ibid., p. 4.
[101] Ibid. p. 5.
[102] Ibid., p. 7.

National Resting Place: taking the form of a cemetery or memorial park

If the NRP were to take the form of a cemetery or memorial park, it would provide a physical place in which communities could gather together to commemorate, mourn the loss and celebrate the subsequent return of these ancestral remains.

The ACIR 2014 report indicates that whilst some respondents felt that ancestral remains should be laid to rest through burial, more were of the view that they should be laid to rest symbolically and that efforts should continue to identify and return them to their homeland.[103] Nevertheless, cemeteries do provide and represent a more physical and humanistic symbol of commemoration and spiritual release.[104] They are places which evoke various emotions, reminding the public and cultural institutions throughout the world that these were human beings which should be mourned and respected as such. Additionally, they allow families to be joined within the afterlife, and bring living descendants together.[105] As a permanent sanctuary, a cemetery would promote and reflect individual, religious and cultural identity. Furthermore, cemeteries or memorial parks would provide a space wherein various communities could perform their own traditional ceremonies for the ancestral remains, ensuring that ancestral remains are presided over through appropriate traditional burial ceremonies.

Cemeteries additionally allow for remains linked to communities which, due to colonial impacts, are no longer able to perform traditional burial ceremonies to have another community within the region with which to consult or to aid in performing a traditional burial ceremony for them. Though cemeteries are usually for the permanent interment of remains, crypts and vaults may be used, allowing for future access. However, this may prove expensive and culturally negate the spiritual significance of interment within the landscape. What should be considered are the various traditional burial ceremonies that each community has. If these remains are to be interred, then perhaps cemeteries should

[103] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 21.
[104] Francis, D., (2008); Rugg, J., (2010); Warner, W. L., (2011, pp. 164–165).
[105] Hallam, E., *The Anatomy Museum: Death and the Body Displayed*, Reaktion Books: London, 2016, pp. 316–352.

encompass the varying techniques for interment of the remains (see Chapter Three) or bring together communities throughout Australia to perform traditional burial ceremonies or Corroborees.[106] Museums Victoria has previously worked with the Aboriginal community of Victoria to rebury unprovenanced ancestral remains at Weeroona Aboriginal Cemetery in Greenvale, Melbourne. Extensive consultations were undertaken with a number of state-wide Aboriginal cultural heritage bodies and professionals, and opinions sought from traditional owners to establish whether Weeroona Cemetery was an appropriate location for the reburial.[107] Weeroona Cemetery was selected on the basis that it is identified by many Australians as Aboriginal land.[108] In addition, Weeroona Cemetery is a single designated Aboriginal cemetery within a central location accessible to all of Victoria's Aboriginal people. Additionally, it has an active management structure and support network within the Australian Indigenous community, and the capacity to continue to receive ancestral remains.[109] Taking all of this into consideration, a culturally appropriate reburial ceremony was held for the repatriated ancestral remains, and a large boulder was positioned so as to mark the area and commemorate the ancestor.[110] Under the Aboriginal Heritage Act 2006, Aboriginal Affairs Victoria mapped the site and registered the location as an Aboriginal site and an official cemetery.[111] Subsequently, there have been various burials of provenance and unprovenanced remains within Weeroona Cemetery over the years. However, with the establishment of an NRP for unprovenanced remains within the country's capital, concerns have been raised as to the future of existing Aboriginal cemeteries which currently house unprovenanced remains. Will these cemeteries become obsolete with the construction of the NRP? Or will they merely serve as places of rest for ancestral remains which are provenanced to a state location?

[106] Corroboree: an aboriginal dance ceremony which can take the form of a sacred ritual or informal gathering.
[107] Australian Government, 'National Keeping Place Discussion Guide', (2013), op. cit., p. 5.
[108] Ibid.
[109] Ibid.
[110] Ibid.
[111] Ibid.

According to the ACIR's 2014 report, the establishment of an NRP will not hinder the purpose and function of these already present resting places. Within the report, it is suggested that ancestral remains which are provenanced to a specific state will be buried within these cemeteries, with ancestral remains which hold limited provenance to be placed within the NRP. Furthermore, various communities proposed that memorials be erected in each state and territory, as well as Canberra,[112] in order to commemorate the remains and remind both Indigenous and non-Indigenous Australians of the questionable method of acquisition and treatment of their ancestors, and the need for public healing, recognition and reconciliation.

Memorial parks have additionally served as commemorative places, named after renowned historical figures. Though human remains are not typically buried within these parks, the Yagan Memorial Park (2010) which was named in commemoration of Yagan (a Nyoongar man who is famed for helping to lead a local resistance against British colonial settlement), is additionally the burial site of Yagan's *kaat* (head) which was repatriated from the UK in 1997. Yagan was killed on July 11, 1833 by White settler William Keats, for the £30 ransom for Yagan's capture.[113] Like many other Australian Indigenous people killed at the hands of White settlers, heads, soft tissue or entire bodies were acquired and shipped to England, see Chapter One. Fforde highlights that Yagan was revered and respected by many local Aboriginal and non-Aboriginal Australians alike, George Fletcher Moore an acquaintance of Yagan particularly admired him.[114] Upon his death, Yagan's head was separated from his body and preserved by a smoking process, additionally Yagan's distinctive cicatrice from his back was 'flayed' and likely sent to England along with the preserved head.[115] The preservation process is detailed by Fforde to have been conducted by suspending the severed head for three months in a hollow tree, over a fire made of

[112] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 15.
[113] Fforde, C., (2008); Lucev, A., (2010).
[114] Fforde, C., 'The Search for Yagan', *National Museum of Australia*, 2008, < http://www.nma.gov.au/exhibitions/first_australians/resistance/yagan/repatriation>, [accessed 01/03/18].
[115] Ibid.

Eucalyptus.[116] Through her research Fforde discovered that it was Moore who may have played a part in the shipment of Yagan's head to England, as he noted in his diary that the head 'may yet figure in some museum at *home*'.[117] The head was then taken to England by Lieutenant Robert Dale where it was given to the British Museum and later found its way to the Liverpool Museum where it was subsequently buried at Everton cemetery in Liverpool in 1964.[118] Fforde provides an insight into the extensive hunt which was initially conducted by Ken Colbung, a Noogar Elder, in the 1950s in order to track down Yagan's skull.[119] Colbung passed on his research to both Cressida Fforde and Peter Ucko who, during the 1990s were actively collating data on Australian Aboriginal human remains held within the UK.[120] In her account of the research undertaken to find Yagan's *kaat,* Fforde explains that through the archival material uncovered, and by delving into original information collected regarding various historical individuals and institutions involved, and their connection to Yagan's remains. This research consequently helped lead to the discovery that Yagan's *kaat* had been held within the Liverpool Museum collection for some time.[121] Although Fforde stresses the lack of presented archival records detailing when Yagan's *kaat* was acquired by the institution and by whom, a member of staff provided Fforde with an administrative file which detailed the burial of Maori remains in a local cemetery in the mid-1960s.[122] The information found within the administrative file served as convincing evidence that the buried remains were in fact those of an Aboriginal man and not all Maori, but potentially those of Yagan.[123] While legalities served to delay the exhumation of Yagan's remains for four years, his skull was finally recovered and handed over to a Noongar community delegation on the 31 August,

[116] Ibid.
[117] Fforde references Moore Diary, Battye Library, Perth, mf 206 (Fforde, C., (2008)).
[118] Fforde, C., (2008); Lucev, A., (2010).
[119] Fforde, C., 'The Search for Yagan', *National Museum of Australia*, 2008, < http://www.nma.gov.au/exhibitions/first_australians/resistance/yagan/repatriation>, [accessed 01/03/18].
[120] Ibid.
[121] Ibid.
[122] Ibid.
[123] A forensic pathologist was advised, following the exhumation, who was able to positively identify the skull as that belonging to Yagan, due to the fracture extended across his skull which had been documented in Pettigrew's phrenological report of 1835, and the presence of cut marks on his vertebrae which were evidence of decapitation (Fforde, C., 2008).

1997 in a hand-over ceremony at the Liverpool Town Hall.[124] While it was hoped that Yagan's *kaat* could be laid to rest alongside the rest of his body, after several years of research and archaeological surveys his original place of burial could not be located.[125] Subsequently, the Noongar community believed that Yagan's skull should be buried at the location where he was murdered (Upper Swann River) and a memorial park be constructed in commemoration. Nyoongar Elder and reburial committee chairman Richard Wilkes said the reburial of Yagan's skull would be in accordance with traditional Nyoongar custom, 'with the Elder ceremony in traditional language and women wailing to show respect'.[126] Additionally, former Western Australian Premier Colin Barnett reflected on the treatment and reburial of Yagan stating:

> His remains were not respected and now, 177 years later, his head, or kaat, has finally been put to rest ... and I hope from that that Yagan and his memory will have a sense of peace and his spirit will be free.[127]

Barnett additionally emphasised the cultural significance of the reburial process and the future benefit such an act of memorial would provide for future Aboriginal generations, expressing:

> I hope this corrects our history, balances our history and that Yagan will have his true place along with other leading West Australians and he will be remembered and respected and provide some inspiration, particularly for young Aboriginal people, to succeed and be proud of their race and endeavour to go forward.[128]

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[124] Fforde,C., (2008); Lucev, A., (2010).
[125] Fforde, C., 'The Search for Yagan', *National Museum of Australia*, 2008, < http://www.nma.gov.au/exhibitions/first_australians/resistance/yagan/repatriation>, [accessed 01/03/18].
[126] Lucev, A., 'Yagan's head reburied in Swan Valley', *The West Australian*, 10 July 2010, <https://thewest.com.au/news/australia/yagans-head-reburied-in-swan-valley-ng-ya-205924> [accessed 01/03/18].
[127] Ibid.
[128] Ibid.

The memorial park aims to provide a spiritual and educational place within the landscape which represents a new beginning in the acknowledgment and understanding of Noongar people and their heritage.[129] The memorial provides Noongar community members with a sense of pride in their identity and kinship with Yanga, while also ensuring that living community members and Noongar Elders are fulfilling their cultural responsibility to their ancestor by ensuring he is respected and returned to the land. Commemorating such an influential figure venerated by the Noongar people and surrounding Aboriginal communities, serves to promote the heroic sentiments which Yagan represented through his actions in life by advocating Aboriginal land rights within the Swan River area, actions which ultimately proved fatal, yet will never be forgotten.

With the continuous use of Aboriginal cemeteries throughout Australia for ancestral remains provenanced to a state, constructing a national memorial park which is dedicated to any and all Australian Indigenous ancestors who were wrongfully removed from their homeland and 'Country', would not only shed light on the colonial impact endured by Australian Indigenous communities but would also celebrate their cultural endurance, identity and recognition as Australia's 'First Peoples'.

While it is unlikely that repatriated unprovenanced remains would be interred within the memorial park, an educational and commemorative space which encompasses visual symbols and representations of Indigenous communities across Australia, would serve to acknowledge their cultural diversity within the contemporary society, their spiritual connection with the land, and their relatedness to ancestral kin. Such a memorial park could either standalone within the landscape or be constructed in association with a national Australian Indigenous museum or storage facility specifically designated for unprovenanced ancestral remains. Though acquiring land and funding for such a park may prove difficult, the educational benefits to both Indigenous and non-Indigenous

[129] 'Yagan', *Monument Australia*, 2010-2018, <http://monumentaustralia.org.au/themes/people/indigenous/display/93059-yagan> [accessed 01/03/18].

Australians, and sentiment of goodwill and reconciliation could prove instrumental in ensuring Australian Indigenous history and heritage is represented, respected and recognised within Australia's national history.

National Resting Place: taking the form of a mausoleum

The proposal of a Resting Place taking the form of a mausoleum was made, reflecting that of the existing 'Tomb of the Unknown Soldier' at the Australian War Memorial.[130] While museums and mausoleums show similarities in the reflective role whereby they serve to evoke memory of deceased historic figures or devastating events of the past, mausoleums serve specifically as places of commemoration for both those affected by historical events and the general public. Mausoleums make a prominent statement within the landscape to ensure the pain, tragedy or acts of the past are remembered and commemorated by future generations. As physical monuments of interment, mausoleums provide both a place for burial or entombment for human remains, as well as designated places for reflection and respect. Although mausoleums can be viewed as memorials which act as physical representatives of intangible values, Williams argues that mausoleums are expected to be 'unique, memorable and iconic, with some metaphorical visual connected to the event', while also needing to 'accommodate messages that support commemoration amongst the public which often means upholding conservative values of national tradition and religious salvation'.[131] While Williams specifically attributes these qualities to War memorials and mausoleums, it is evident that these spaces hold political undertones which may ultimately be viewed negatively by minority groups. Williams additionally acknowledges that while the intended aesthetic purpose of memorials may be achieved, these monuments only gain cultural significance and effect through being repeatedly visited.[132]

As a memorial building constructed as a monument enclosing the interment space or burial chamber of a deceased person or people, a NRP taking the form of a

[130] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 15.
[131] Williams, P., op. cit., pp. 4–5.
[132] Ibid., p. 5.

mausoleum would stand strong within Canberra's landscape as a symbol of Australian Indigenous identity for all to see. Though the remains do not necessarily have to be entombed within the mausoleum, as is the case for the remains of the Unknown Australian Soldier, which have been interred in the Hall of Memory at the Australian War Memorial in order to represent all Australians who gave their lives during wartime. Therefore, for Australian Indigenous communities, one set of remains could be used to represent or symbolise all of the ancestral remains which were previously taken from their homeland without consent. Hanchant-Nichols highlighted, during a meeting of the South Australian Aboriginal Heritage Committee in early 1996, how two members suggested that the site of the old Colebrook Children's Home be used for the reburial of South Australian unprovenanced remains.[133] Other community members, however, were in disagreement. Darcy Pettit, Marcia Langton, Darryl Pearce and the late Ken Colbung all expressed to Hanchant-Nichols personally their hopes of a national memorial in Canberra, similar in nature to the Australian War Memorial already present, as an appropriate site for unprovenanced ancestral remains to be buried.[134] Since the late 1990s this idea has certainly gained merit in some communities, with a number of people to whom Hanchant-Nichols has previously spoken believing it to be an idea worth pursuing. Even so, Hanchant-Nichols expresses her qualms regarding the NRP, stating:

> The establishment of a National Memorial is not my preferred option for unprovenanced ancestral remains, one would hope that we could express to the spirits of those old people that we are doing the best we can for them and we hope their spirits would find it preferable to be at a memorial site than on the shelf of a museum.[135]

[133] Deanne Hanchant-Nichols, Response to questionnaire sent: Questionnaire (Australia), 1 December 2014 (see Appendix 5).
[134] Ibid.
[135] Ibid.

Other possibilities for the form and function of the National Resting Place

National Resting Place: taking the form of a Safe Keeping Place within each state/community

After reviewing the survey and consultation responses, the ACIR noticed the recurrent suggestion of keeping places within either Aboriginal communities or each individual state.[136] When the Springsure community in Central Queensland requested the return of burial bundles from the Queensland Museum, the museum willingly complied. However, the remains were not buried; instead, the community organised for a solid brick and concrete Keeping Place to be constructed within a nearby local cemetery, which ensured that the remains were secure at all times.[137] Though it may seem unusual for the community to house the remains within a Keeping Place, it is apparent that they felt that it was their responsibility to ensure that the ancestral remains were protected from the threat of theft, damage and decay.[138] Though museums are releasing the remains in good faith, with the assurance that they will be given a traditional burial by the community, Lindy Allen from Melbourne Museum emphasised in an interview that once the remains have been handed to a community the museum is no longer responsible for the remains and has no authority over them; however, if asked, the museum will advise communities on possible options to consider for repatriated remains.[139] Nevertheless, in 2014 it was apparent that the establishment of an NRP for remains which can be provenanced to a state, town or community may be a possibility; however, this is perhaps not at the fore of their concerns, as ancestral remains with little to no known provenance require further additional community consultations in order to ensure the unanimous approval of a burial within the community's land. Even so, the ACIR believes that Australian Indigenous ancestral remains which are only provenanced to a state or territory should be cared for

[136] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 15.
[137] Aird, M., 'Repatriation in Queensland Australia', in *The Dead and their Possessions: Repatriation in principle, policy and practice*, Fforde, C., Hubert, J., Turnbull, P., (eds.), Routledge: New York and London, 2002, p. 308.
[138] Ibid., p. 309.
[139] Lindy Allen, Interview, Melbourne Museum, Melbourne, 10 December 2014.

within their state or territory, rather than a repository or Resting Place, as they would thus be closer to their 'home'.[140]

National Resting Place: taking the form of a Safe Keeping Place within state museums/institutions

From the ACIR 2014 report, some state and territorial collecting institutions have highlighted that the relinquishing of ancestral remains with little to no known provenance from their care to a national site may prove detrimental to the remains. The report further detailed that some museums rely on their highly qualified and experienced staff, who have the required knowledge and training, to care for, and carry out research into, the ancestral remains in a culturally appropriate manner.[141] Additionally, Australian museum staff reiterated their concern over the integrity of the remains, suggesting that transferring these ancestral remains to another establishment would weaken the connection to the people and the associated archival records held within the museum that information researchers would be required to study when undertaking provenancing work.[142]

A previous case, in 1989, wherein ancestral remains were repatriated from the South Australian Museum to the Borroloola community in the Northern Territory, was initiated following a lengthy process of negotiations with Elders from the community. Though expecting the remains to be traditionally interred in 1996, the remains were found to be held within the office of the Aboriginal Areas Protection Authority.[143] The reasoning behind the community's decision was their fear of the unknown ancestral remains with the Borroloola community, suggesting that the allocation of the provenance to 'Borroloola' was not good enough for the majority of the community at that time.[144]

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[140] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 12.
[141] Ibid., p. 11.
[142] Ibid.
[143] Hanchant, D., 'Practicalities in the return of remains: the importance of provenance and the question of unprovenanced remains', in Fforde, C., et al., (2002), op. cit., p. 315.
[144] Ibid.

The ACIR's 2014 report noted the apparent hesitation that some Australian Aboriginal and Torres Strait Islander peoples have when visiting museums.[145] This would ultimately restrict their ability to pay their respects to their ancestors in a culturally appropriate and traditional way. For example, the cleansing of remains through a smoking ceremony would not be possible for fear of contaminating other artefacts within a museum's collection, for health and safety reasons, or due to setting off fire alarms. That being said, the National Museum of Australia has a separate storage facility designated solely to store Aboriginal ancestral remains, away from other non-Aboriginal human remains within their collection, which permits the opportunity for smoking ceremonies to be conducted.[146] As previously highlighted, both Australian Aboriginal and Torres Strait Islander peoples are adamant about their desire to be able to visit their ancestors at their own discretion, implying the need for a ceremonial public space to be developed which, ultimately, would not compromise the integrity of other objects and artefacts within an institution's collection. Therefore, it is clear that even though the remains are to be housed in a repository unit similar in nature to that of an institution, an adjoining space for memorial and ceremonial congregation is a necessity so as to ensure that ancestors are shown the respect and dignity which they deserve. Through providing communities with a place for ceremonies, both museums and the government are demonstrating their support in allowing the reincorporation of ancestors within living communities and, ultimately, allowing museums to remain relevant for Australian Indigenous people.

Retaining remains in their current location to await provenancing

Within Australia, due to the various governing policies, any Australian Aboriginal or Torres Strait Islander remains must be either repatriated to their originating community or handed over to the eight elected museums which act as temporary repositories, as highlighted in Chapter Two. As museums have the necessary

[145] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 10.
[146] Dr. Michael Pickering, Interview, National Museum of Australia, Canberra, 7 December 2014.

equipment and staff to preserve, care for and analyse the remains, they are currently the only appropriate places for poorly provenanced ancestral remains. Nevertheless, for museums outside of Australia, which are not limited by policies and governmental legislation which fully enforce the ethical removal of any Indigenous human remains from their display, the repatriation of unprovenanced remains is at the museum's own discretion.[147] Furthermore, within the process of repatriation, a cause for concern may perhaps be placed upon the decision of moving unprovenanced remains from one institution to another, prompting individual institutions to maintain custody of the remains until an affiliated community or provenance to a region or specific state is determined. Moreover, with no apparent community claiming the ancestral remains, it would perhaps be considered detrimental to the safety of the remains for them to be placed in one institution, even though they are currently receiving the proper professional care required in their current location. Therefore, the ancestral remains are left in limbo. However, with the establishment of an NRP, would institutions outside of Australia feel more comfortable in relinquishing the remains while knowing that even though they would still be housed in a repository unit, they would be affiliated to an Australian Indigenous body or organisation in the symbolic representation of all Australian Aboriginal and Torres Strait Islander peoples? As the Resting Place has yet to be approved, and plans initiated in its construction, in addition to the pre-existing repatriation policies within museums on a global scale, this concept has yet to be tested.

The importance of conducting surveys and consultations with Australian Indigenous communities

The ACIR's decision to conduct consultations, and a national survey, regarding the establishment of an NRP was due to its desire to ensure that the opinions and needs of Indigenous communities were being heard and met. Committee co-chairs

[147] Department of Culture, Media and Sport, 'Working Group on Human Remains: Human Remains Report – Chapter 13', *DCMS*, 2003, pp.177–184.

Phil Gordon and Lynette Shipway reflected their decision for conducting surveys and consultations, stating:

> The consultation process will help us understand the diversity of views that will assist us with providing strategic advice to Government on a way forward that is culturally appropriate and considerate of Aboriginal and Torres Strait Islander peoples aspirations.[148]

The surveys and consultations allowed for various Australian Indigenous communities and stakeholders not only to gather together and give their opinions on the establishment of such a place, but also to take part in the decision-making process regarding the safeguarding and longevity of their ancestors. In addition, in conducting the surveys and consultations, the ACIR is ensuring that the decisions which are made under the new policies are culturally appropriate and approved.[149] The gathered responses have allowed the Australian government to easily comprehend the Australian Aboriginal and Torres Strait Islander position regarding this matter. Though it is clear that the overall result of the consultation process has ultimately been a positive one, it must be recognised that only 142 responses to the ACIR's survey were received by the closing date (October 2013).[150] The ACIR states that the number of responses were from individuals and communities throughout Australia, including representatives from the National Congress of Australia's First Peoples, the Healing Foundation, Land Councils, the National Museum of Australia, state and territorial museums and art galleries, cultural centres, heritage organisations, and state government, with over half of those that responded to the survey providing their name and the remaining listed as a community or organisation.[151] Though Australian Indigenous input has been acquired, providing influential insight into opinions on the desired future of unprovenanced Australian Indigenous ancestral remains, when examining the total number of participants as a whole in comparison with the collective number

[148] Danby, M., 'Consultation begins for national keeping place for repatriated ancestral remains', *Michael Danby MHR*, 7 June 2013, <http://www.danbymp.com/press-releases/1922-consultation-begins-on-national-keeping-place-for-repatriated-ancestral-remains-.html> [accessed 11/11/16].
[149] Ibid.
[150] Australian Government, 'National Resting Place Consultation Report 2014', op. cit., p. 20.
[151] Ibid.

of Indigenous Australians within the country, the ACIR's report merely reflects a small representation of the Australian Indigenous people.[152] Questions can be raised as to the committee's approach to communities: were they specifically selected due to their particular location? Were all communities contacted or only those which expressed interest in giving their opinion? Were those who did not have access to computers or an authoritative body restricted or inhibited from participating? These are questions which the ACIR report does not address but perhaps should be noted for future consultations and surveys. Though the repatriation of Australian Indigenous ancestral remains may not be at the fore of concern in the many issues with which Australian Indigenous communities are continuously faced, what should perhaps be questioned is whether all Australian Indigenous communities throughout Australia are aware of the displacement of ancestral remains and the repatriation process as a whole — or if they feel particularly concerned about the outcome.

Both Lindy Allen and Michael Pickering acknowledged that remote communities, such as those on the northern coast of the Northern Territory, communities which have very limited to no contact with the Western world, perhaps remain unaware of the issue.[153] Neil Carter, a member of the ACIR from 2012–2015, reinforced the issue of general awareness, stating: 'Some communities didn't even know their ancestral remains were taken, Elders don't know why remains were taken initially.'[154] Furthermore, communities which have no access to online services would be limited in their capacity to participate in the survey or consultations, restricting the possibility of their opinions being considered.

Even though questions should be raised as to the true representation of Australian Indigenous opinions in the ACIR's 2014 report and its position in recognising the need for a solution to unprovenanced ancestral remains examined, the

[152] Ibid.
[153] Lindy Allen, Interview, Melbourne Museum, Melbourne, 10 December 2014; Dr. Michael Pickering, Interview, National Museum of Australia, Canberra, 7 December 2014.
[154] Carter, N., 'International Repatriation, Australia, UN Permanent Forum on Indigenous Issues', Washington, D.C., *Indian Affairs Media*, 15 August 2013, <https://www.youtube.com/watch?v=MiZZttWXxDY> [accessed 07/03/16].

consultation process, however, is lengthy and requires consistent dedication and governmental resources. In recognising the benefits of the ACIR, the Honourable Kim Beazley stated in an interview relating to international repatriation at a United Nations Permanent Forum on Indigenous Issues in Washington, D.C., that through collaborative programmes, it 'ensures the government is not making decisions on behalf of Indigenous communities, it ensures that the way in which remains are returned are appropriate'.[155] This remark appears to be a positive step towards progression; however, while some Australian Aboriginal and Torres Strait Islander peoples have taken part in consultations and surveys regarding the proposed NRP, it is ultimately the Australian government that holds the authority when deciding on and approving the form and function of the NRP. Even after all of Tony Abbott's apparent determination to ultimately recognise Indigenous Australians in Australia's Constitution, at the time of writing, the ACIR and Australian Indigenous communities are still waiting for the government's response to their recommendation for an NRP in the national capital.[156]

Conclusion

As a result of the ACIR's consultations and surveys, it can be assumed that there is still a real need for a solution to be found for these unprovenanced ancestral remains. It is evident that museums and institutions are not culturally appropriate places for the permanent interment of ancestors. Furthermore, with museums being a Western construct, the continued inclusion of ancestral remains within museums reflects their maintained control and ownership over the ancestral remains, which is ultimately counterproductive to the Australian Indigenous desire for cultural tolerance, acceptance and equality within Australia. Though still an idea in its infancy, it is clear that a suitable Resting Place is needed, not only to allow the spirits of these lost ancestors to be at rest and reconnected with their 'Country', but also for

[155] Carter, N., 'UN Panel on Indigenous Repatriation, Honorable Kim Beazley, Australia (Part 2)', Washington, D.C., *Indian Affairs Media*, 20 July 2013, <https://www.youtube.com/watch?v=iqIXpcYUev8> [accessed 07/03/16].

[156] Daley, P., 'The bone collector: a brutal chapter in Australia's past', *The Guardian*, 14 June 2014, <http://www.theguardian.com/world/2014/jun/14/aboriginal-bones-being-returned-australia> [accessed 11/11/16].

living Indigenous communities to reclaim not only their heritage but also their family members who were previously 'stolen'. In conducting consultations and surveys, the ACIR is not only gaining insight into the various decisions and considerations that it needs to make regarding poorly provenanced remains, but also building bridges of reconciliation through the recognition of Australian Aboriginal and Torres Strait Islander peoples' concerns, requirements and support in relation to such a place. In the analysis of the ACIR's proposed options regarding the location, form and function of the NRP, it is clear that one repository unit is satisfactory, with cultural considerations and access needing to be taken into account during the construction of such a spiritual and commemorative place. What is evident within the ACIR's 2014 report, as well as in interviews with museum professionals and academics in Australia, is the support for an NRP that is governed by an Australian Indigenous authority or representative body either in the day-to-day running of such a facility or on a consultancy basis. Though, at present, the ACIR's report provides its opinion that all of the stakeholders and Australian Indigenous communities are in accord with the various recommendations, there are still differing concerns and considerations which need to be recognised and addressed. In addition, as a government-funded committee, questions should be raised regarding its approach, specifically the number of participants who are represented within the ACIR's report and the decision-making process. Furthermore, there are various considerations which must be highlighted with regard to the limitations for unprovenanced remains on a global scale, and the differing opinions, particularly those of UK and international museums regarding the relinquishing of unprovenanced remains to a Resting Place. Nevertheless, it is ultimately apparent that if a non-invasive approach is exhausted, and no community is able to approve the conducting of invasive scientific testing, a culturally appropriate long-term repository for these lost ancestral remains must be initiated. Subsequently, this would allow the ancestral remains to be accorded the respect and dignity that they deserve while in the care of Australian Indigenous people. Only when it is built will those Australian Indigenous ancestors be freed from the limbo of the museum collections in which they currently reside. That being said, in establishing an appropriate solution for unprovenanced Australian Indigenous ancestral remains, it is important for the ACIR and the Australian government to look to other countries which have encountered similar

issues and concerns, and review their applied approach in finding their own appropriate solution. As both New Zealand and the United States of America are faced with the same dilemma regarding unprovenanced remains, it would be highly beneficial to analyse their methods of alleviating such problems and compare the value of their solutions with those approaches suggested by the Australian government. Through the examination of these valuable comparisons, viable solutions could be established and administered within the Australian debate.

Chapter Five:

Comparative approaches to unprovenanced Indigenous ancestral remains: the United States of America and New Zealand

Introduction

Since the late 1970s, Australia has been instrumental in leading the way in the national and international activism and repatriation of Australian Indigenous ancestral remains and cultural material.[1] On a global scale, both New Zealand and the United States of America (USA) have been faced with the repatriation debate and, in their own ways, have dealt with and, in some instances, worked to overcome various obstacles in the return and restitution of ancestral remains and sacred cultural material.[2] That is not to say, however, that either country does not face ongoing hurdles concerning the consideration and processing of individual repatriation claims on both a national and international platform.

Issues pertaining to the repatriation of ancestral remains and, more specifically, the dilemma regarding the return of unprovenanced or culturally unidentifiable or unaffiliated ancestral remains are relevant to both countries and their

[1] Simpson, M. G., (2001); Fforde, C., Hubert, J., Turnbull, P., (2002); McNiven, I. J., Russell, L., (2005); Turnbull, P., Pickering, M., (2010).
[2] Mihesuab, D. A., (2000); Watkins, J., (2000); Simpson, M. G., (2001); Fforde, C., Hubert, J., Turnbull, P., (2002); Hole, B., (2007); Coleman, E. B., (2010); McCarthy, C., (2011); O'Hara, C., (2012); McCarthy, C., (2014); Robbins, H. A., (2014); Colwell, C., (2017).

Indigenous communities.[3] Similar to Australia, both the USA and New Zealand have taken it upon themselves to ascertain their own individual and institutional approaches, which are both desirable and ethically appropriate in addressing the lack of provenance or cultural affiliation of Indigenous ancestral remains within their institutions.[4] In contrast to Australia's propositions for a suitable solution for unprovenanced ancestral remains, as described in the previous chapter, this chapter will examine the different approaches that the USA and New Zealand have taken to supporting their Indigenous communities, drawing on implemented museum policies and legislation which reinforce the need for continuous repatriation.

Historically, both the Native Americans and the Maori were exploited, demoralised and challenged by 'white' supremacy through colonial and missionary impact on their lives and cultures.[5] However, unlike the Australian Indigenous people, Native Americans and the Maori were provided with treaties[6] which recognised, to a degree, the rights of the Indigenous nations, securing an element of sovereignty and a level of peace between the settler colonies and the Indigenous inhabitants. Nevertheless, treaties were not always respected and maintained, nor were they always instigated with honest intentions.[7]

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[3] Legal Information Institute, '43 CFR 10.11 – Disposition of culturally unidentifiable human remains', *Cornell Law School*, 2010, <https://www.law.cornell.edu/cfr/text/43/10.11> [accessed 01/12/15]; Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme Background Document', (April 2010); Chambers, F., (2013); Giesen, M., (2013); Redman, S. J., (2016, pp. 282–283); Colwell, C., (2017).

[4] U.S. Government Publishing Office, Native American Graves Protection and Repatriation Act, Public Law 101-601, codified at 25 U.S.C. § 3001, et seq. (2006); Legal Information Institute, '43 CFR 10.11 – Disposition of culturally unidentifiable human remains', (2010); Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme Background Document', (April 2010).

[5] Jennings, F., (1975); Simpson, M. G., (2001); Murray, T., (2004, p. 6); McCarthy, C., (2011).

[6] The Treaty of Canandaigua (1794) is one of the earliest treaties made between a native nation and the United States. The treaty confirmed peaceful relations with the Haudenosaunee (Six Nations) located on the border between the US and British Canada, Unratified Californian Treaty K (1852) ('Nation to Nation: Treaties between the United States and American Indian Nations', *National Museum of the American Indian*, <http://nmai.si.edu/nationtonation/unratified-california-treaty-k.html> [accessed 15/05/17]; The Treaty of Waitangi (Te Tiriti o Waitangi), signed on 6 February 1840 by representatives of the British Crown and various Maori chiefs from the North Island of New Zealand (Renwick, W., 1990).

[7] Wang, H. L., 'Broken Promises on Display at Native American Treaties Exhibition', *npr*, 18 January 2015, <http://www.npr.org/sections/codeswitch/2015/01/18/368559990/broken-promises-on-display-at-native-american-treaties-exhibit> [accessed 15/05/17].

Consequently, much like the Australian Aboriginal and Torres Strait Islander peoples, many sacred cultural materials and ancestral remains were insensitively removed from their communities or resting places, or traded as commodities, to be analysed and displayed within institutions throughout the world,[8] as previously examined in Chapter One. However, both of these cultures, much like the Indigenous Australians, have remained resilient, and though community numbers have depleted or, in some instances, diminished entirely,[9] their resistance and cultural determination have endured to this day.

As detailed in Chapter One, a shift in public and institutional attitudes towards the treatment and representation of Indigenous people and their culture within society and museums was initiated in the 1980s with the instigation of UNESCO and governmental legislation and acts with which to protect and safeguard both Indigenous tangible and intangible heritage on a global scale. Policies such as the *Native American Graves Protection and Repatriation Act* (NAGPRA) (1990) and the *Te Ture Whenua Māori Act* (the Maori Land Act) (1993) have paved the way for Indigenous communities to regain and take control of their culture, heritage, and stolen property. Furthermore, through the development of various repatriation and restitution policies and procedures, museums are subsequently supporting Indigenous source communities and working to heal the bond between the Indigenous and non-Indigenous population.[10] In addition, the impact of cultural centres and national museums that are supported and run by Indigenous communities will be examined in this chapter, as they specialise in representing and exhibiting Indigenous heritage or specific tribal differences to the public and serve to positively promote both their cooperation and validation within society.

As Indigenous minorities living within a non-Indigenous majority population, this chapter will therefore analyse the USA and New Zealand separately, re-examining

[8] Bray, T. L., (2001, pp. 1–2); Larson, F., (2014, p. 27).
[9] The decrease in Native American tribes and population was highly impacted by colonial conflict, massacres, settler expansion, intertribal conflict frequently aggravated by colonial intrusion, dispossession, disease, and loss of land and resources (Ostler, J., (2015); see also: Stannard, D., (1992); Wolfe, P., (2006); Moses, A. D., (2008)).
[10] Simpson, M. G., (2001); Fforde, C., Hubert, J., Turnbull, P., (2002); Thornton, R., (2002); Colwell, C., (2017).

the reasons as to why Native American and Maori skeletal remains, or *Toi moko,* were highly sought after and collected from the eighteenth century to the twentieth century. The complex nature of the tangible and intangible cultural practices within both Native American communities and Maori *iwi*[11] will be discussed, as they shed light on the difficulty of implementing an appropriate solution to unprovenanced remains.

This chapter will specifically highlight how the USA and New Zealand have independently sought to rectify the issues presented by unprovenanced or culturally unidentifiable or unaffiliated ancestral remains, illustrating their individual policies and methods of evaluating claims and cultural affiliation. Though museums in both countries appear to be determined in their endeavour to repatriate and provenance ancestral remains with little to no known provenance, both countries are, however, at different stages in this process and have initiated different constructs in their approach to this issue. These various 'stages' will be analysed and compared retrospectively within this chapter to the Australian dilemma of unprovenanced ancestral remains, identifying possible cultural complexities which are unique to the differing Indigenous cultures and which may aid in understanding the contributing factors regarding why an appropriate solution has or has not been made.

The United States of America

Acquiring Native American skeletal remains from the seventeenth to twentieth centuries

Similar to the Australian Aboriginal and Torres Strait Islander peoples, Native American human remains and cultural material were widely sought after by colonisers and missionaries for their scientific insight due to their 'savage' and 'uncivilised' demeanour, distinct differences from Western society, and lack of

[11] *iwi:* a Maori term meaning 'tribe' or 'community' (Museum of New Zealand Te Papa Tongarewa, 'The Karanga Aotearoa Repatriation Program Resource 1-11', *Museum of New Zealand Te Papa Tongarewa*, p. 2).

demonstrated technology.[12] During the late 1800s, thousands of Native American skeletal remains were specifically acquired for scientific insight and advancement in the study of racial distinction, through the collecting of heads, and consequently the mass genocide of various tribes by the U.S. Army.[13] The Army Medical Museum's collection, which was later housed in the Smithsonian Museum, consisted of a vast number of Native American skulls acquired for an 'Indian Crania Study'[14] during the 1800s.[15] In the late 1980s, it was believed that the Smithsonian Institution collections held more than nineteen thousand Native American remains.[16] What is readily suggested by many archaeologists and museum authorities is the strongly held belief that the skeletal remains held scientific benefits for living and future Native Americans by providing vital information surrounding their health and ongoing welfare. This debate is particularly relevant to the continuous retention of the Kennewick Man; however, it cannot be overtly justified.[17] This scientific defence of the future benefits that continuous racial biological study provides for the Indigenous people is central to the scientific position in the repatriation debate on a global scale, as reinforced in Chapter One. Even so, it was through recognising the inequalities endured by the Native American people, as well as the effect of decades of governmental assimilation policies, including pressures and influences on their society which threatened traditional tribal cultures to the edge of extinction, that change became necessary and reconciliation needed.

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[12] Platzman, S., (1992); Feagin, J. R., (2001, p. 73); Thornton, R., (2002); Bennett, T., (2004); Harvey, S. P., (2016); Redman, S. J., (2016); Colwell, C., (2017, p. 5).

[13] Shown Harjo, S., 'Last Rites for Indian Dead: Treating Remains Like Artefacts Is Intolerable', *Los Angeles Times*, 16 September 1989, <http://articles.latimes.com/1989-09-16/local/me-21_1_indian-artifacts> [accessed 30/11/15].

[14] The ultimate purpose of the Indian Crania Study was to not only assess and evaluate the physicality of the cranium itself, drawing various distinctions to the appearance of differing characteristics when compared to those of modern-day man, but also prove the racial superiority of 'civilised' man, such as Europeans and Americans, in contrast to their native counterparts. Samuel G. Morton, a Philadelphian physician, was an avid collector of Native American skulls and a proponent of polygenism. His research contributed to the publication of his texts entitled *Crania Americana* (1839) and *Inquiry into the Distinctive Characteristics of the Aboriginal Race of America and Catalogue of Skulls of Man* (1840) ('Skulls in print: scientific racism in the transatlantic world', *The University of Cambridge*, 19 March 2014, <http://www.cam.ac.uk/research/news/skulls-in-print-scientific-racism-in-the-transatlantic-world> [accessed 12/04/17]; Redman, S. J., (2016, pp. 23–34)).

[15] Shown Harjo, S., op. cit.

[16] Ibid.

[17] Harris, D. J., (1991, p. 201); Gerstenblith, P., (2002); Owsley, D. W., Jantz, R. L., (2002); Mitchell, D. R., Brunson-Hadley, J. L., (2003); Herman, A., (2015).

The implication and efficacy of the Native American Graves Protection and Repatriation Act (NAGPRA)

The introduction of various governmental policies and legislation ensured that Native Americans were recognised as well as provided with a means of regaining their heritage and various previously claimed land title settlements.[18] Though many archaeological sites significant to differing American Indigenous tribes were protected and preserved as federal property, it was not until the late 1980s that Native American tribes had the opportunity to express their opinions on the excessive excavations being conducted on federal land.[19]

The passing of the NAGPRA in 1990 spearheaded the reclamation of previously stolen ancestral remains and cultural property. Senator John McCain stood before the United States Senate on 26 October 1990 in support of the NAGPRA, stressing that the bill would represent a 'true compromise' regarding the subject of repatriation between museums and the Native American community within the United States of America.[20] Gaining unanimous approval from both the Senate and the House of Representatives, the United States Congress proposed that it was not acting unilaterally in its decision of supporting the NAGPRA, but rather was additionally supported by national organisations representing museums, archaeologists, Native American tribes, anthropologists, preservationists, civil libertarians, and eighteen religious denominations.[21] The NAGPRA details the legal rights of Native American lineal descendants, Native American tribes, and Native Hawaiian organisations. There remain, however, some archaeologists, biological anthropologists and museum authorities who still feel that the removal and

[18] The United States Congress, 'Improving land title grant procedures for Native Americans: joint hearing before the Committee on Financial Services and the Committee of Resources, U.S. House of Representatives, One Hundred Ninth Congress, first sessions, 19 July 2005', *The Library of Congress*, 2005.
[19] 'NAGPRA', *Indians of the Midwest*, 2011, <http://publications.newberry.org/indiansofthemidwest/property/nagpra-issues/> [accessed 30/11/15].
[20] Fforde, C., Hubert, J., Turnbull, P., op. cit., p. 108.
[21] Ibid.

ultimate destruction of Native American skeletal remains, through interment, is detrimental to the benefits and insights which they provide, as was highlighted in Chapter One. Many anthropologists who support the repatriation of affiliated remains[22] do so because the process of returning these particular remains and cultural property aids in the development of new methodologies in osteological analysis.[23] The American Association of Physical Anthropologists (AAPA) expressed its support for the NAGPRA's 'key goal' in ensuring that culturally affiliated and federally recognised tribes are empowered to make decisions regarding the disposition of their ancestral remains.[24] However, where cultural affiliation is absent, repatriation claims have no moral founding.[25] In addition, the publication of *Standards: For Data Collection from Human Skeletal Remains* by Buikstra and Ubelaker in 1994 sought to support the NAGPRA through establishing a standardised procedure when examining skeletons.[26] More importantly, with the passing of the NAGPRA, an end to the extensive history of protesting on the part of the Native American people against the desecration and abuse of human remains and sacred cultural material was achieved. Through the NAGPRA, public support from non-Indigenous Americans for the repatriation and protection of Indigenous cultural property grew, with Congress subsequently providing for the repatriation of human remains from the Smithsonian Institution in 1989.[27] Furthermore, it can be suggested that the implementation of the

[22] Affiliated Remains: These are remains which are linked to current communities which have been federally recognised by the NAGPRA (U.S. Government Publishing Office, Native American Graves Protection and Repatriation Act, Public Law 101-601, codified at 25 U.S.C. § 3001, et seq. (2006); Legal Information Institute, '43 CFR 10.11 – Disposition of culturally unidentifiable human remains', (2010)).
[23] Rose, J. C., Green, T. J., Green, V. D., 'NAGPRA is Forever: Osteology and the Repatriation of Skeletons', *Annual Review Anthropology*, Vol.25, 1996, pp. 81–103.
[24] American Association of Physical Anthropologists, 'Comments on 43 CFR Part 10: Native American Graves Protection and Repatriation Act Regulations – Disposition of Culturally Unidentifiable Human Remains; Final Rule Federal Register 75:49:12378', *AAPA*, 15 March 2010, p. 1.
[25] American Association of Physical Anthropologists, 'AAPA Position Statement on Kennewick Man (2000) – Statement by the American Association of Physical Anthropologists on the Secretary of Interior's Letter of 21 September 2000 Regarding Cultural Affiliation of Kennewick Man', *AAPA*, 20 October 2000, <http://physanth.org/about/position-statements/native-american-graves-repatriation-act-nagpra/aapa-position-statement-kennewick-man-2000/> [accessed 30/11/15].
[26] Aftandilian, D., 'Standards for Data Collection from Human Skeletal Remains: Proceedings of a Seminar at the Field Museum of Natural History', Buikstra, J. E., Ubelaker, D. H., (eds.), *Arkansas Archaeological Report Research Series*, December 1994.
[27] NAGPRA, *Indians of the Midwest*, 2011, <http://publications.newberry.org/indiansofthemidwest/property/nagpra-issues/> [accessed 30/11/15].

NAGPRA was a political platform used in the desire for reconciliation between Indigenous and non-Indigenous Americans. The legal rights of American Indigenous people, as detailed within the NAGPRA, extend to the treatment, repatriation and disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony with which they can show a relationship of lineal descent or cultural affiliation.[28] This concept of 'cultural affiliation' is a fundamental element in the implementation of this legislation, as it acts as a basis for repatriation requests and in the sanctioning of claims made in relation to new discoveries on federal or tribal land.[29] The statute defines cultural affiliation as follows:

> …a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian Tribe or Native Hawaiian organization and an identifiable earlier group. (Sec. 2(2))[30]

This may subsequently imply that contemporary groups of Native Americans of diverse backgrounds who voluntarily associate with one another for some purpose or purposes are not viewed as proper claimants under the provisions of the statute.[31] This limitation and restriction for culturally unrecognised and unaffiliated tribes will be further discussed within this chapter.

Sections 5–7 of the statute require federally funded museums to publish inventories of human remains and associated funerary objects within their collections, identifying the geographical and cultural affiliation of each item[32] as well as providing written summaries of other cultural items.[33] These inventories should also include the presence of culturally unidentifiable human remains.

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[28] National Park Service – U.S. Department of the Interior, 'The Native American Graves Protection and Repatriation Act (NAGPRA)', Reproduced from *Archaeological Method and Theory: An Encyclopedia*, Ellis, L., (ed.), Garland Publishing Co., New York & London, 2000, Francis P. McManamon, <http://www.nps.gov/archeology/tools/laws/nagpra.htm> [accessed 30/11/15].

[29] Ibid.

[30] Ibid.

[31] Ibid.

[32] NAGPRA, *Indians of the Midwest*, 2011, The Newberry, National Endowment for the Humanities, <http://publications.newberry.org/indiansofthemidwest/property/nagpra-issues/> [accessed 30/11/15].

[33] National Park Service – U.S. Department of the Interior, 'The Native American Graves Protection and Repatriation Act (NAGPRA)', Reproduced from *Archaeological Method and Theory: An Encyclopedia*,

By 2007, it was believed that inventories accounted for the remains of 158,008 Native American individuals, of which twenty-six per cent were successfully repatriated to their affiliated communities.[34] What is apparent throughout the act is the constant need for tribal consultation and intervention, with the requirement that agencies and museums consult with Native American tribes and Native Hawaiian organisations in an attempt to reach an agreement on the repatriation or other dispositions of these remains and objects.[35] Once lineal descent or cultural affiliation has been established, and in some cases the right of possession has also been proven, lineal descendants, affiliated tribes or affiliated Native Hawaiian organisations will, in most instances, make the final decision regarding the manner in which the disposition of cultural items will occur.[36]

Disposition may take many forms, from reburial to long-term curation, according to the wishes of the lineal descendants or culturally affiliated tribes.[37] Moreover, according to Section 3, the NAGPRA requires that Native American tribes or Native Hawaiian organisations be contacted and consulted whenever archaeological examinations encounter, or are expected to encounter, Native American cultural items or when such items are unexpectedly discovered on federal or tribal land.[38] If, however, excavation must be conducted or the removal of any such items were to occur, procedures required by the Archaeological Resources Protection Act (Sec. 3 (c)(1)) must be followed.[39] This NAGPRA condition is beneficial to communities, as it is likely to encourage the maintained preservation of archaeological sites or, at best, the portions thereof which contain any form of

Ellis, L., (ed.), Garland Publishing Co., New York & London, 2000, Francis P. McManamon, <http://www.nps.gov/archeology/tools/laws/nagpra.htm> [accessed 30/11/15].

[34] NAGPRA, *Indians of the Midwest*, 2011, The Newberry, National Endowment for the Humanities, <http://publications.newberry.org/indiansofthemidwest/property/nagpra-issues/> [accessed 30/11/15].

[35] National Park Service – U.S. Department of the Interior, 'The Native American Graves Protection and Repatriation Act (NAGPRA)', Reproduced from *Archaeological Method and Theory: An Encyclopedia*, Ellis, L., (ed.), Garland Publishing Co., New York & London, 2000, Francis P. McManamon, <http://www.nps.gov/archeology/tools/laws/nagpra.htm> [accessed 30/11/15].

[36] Ibid.

[37] Ibid.

[38] Ibid.

[39] Ibid.

burial or other kinds of cultural property. Nevertheless, it would be advantageous for federal agencies and tribes undertaking excavation or construction activities on their land to carry out careful consultations with traditional occupants of such land, with additional intensive archaeological surveys being conducted to locate and then protect possible unmarked Native American graves, cemeteries, or other places wherein cultural items might be located.[40] With the passing of the NAGPRA, it was decided that in order to ensure that legislative intent was maintained through a balanced equilibrium, a review committee comprising scientific organisations and national museum representatives, as well as various members of Native American tribes and Hawaiian organisations, was established.[41] This committee, though perhaps constructed as a political tool, does, nevertheless, demonstrate the necessity of an Indigenous presence and consultation in the decision-making process. Even so, in recent years, federal agencies have been questioned regarding their compliancy with the NAGPRA, including the future intent and efficacy of the act in its ability to support and fulfil its promise to Native American communities and the protection of their heritage.[42]

The National Museum of the American Indian

In addition to the NAGPRA, the passing of the *National Museum of the American Indian Act* (NMAIA) in 1989 by Congress, and the subsequent establishment of the new National Museum of the American Indian (NMAI), allowed for and encouraged the regulated repatriation of Native American human remains and cultural property. This act prompted the transferred custody of more than 800,000 objects in the George Gustav Heye collection[43] at the Museum of the

[40] National Park Service – U.S. Department of the Interior, 'The Native American Graves Protection and Repatriation Act (NAGPRA)', Reproduced from *Archaeological Method and Theory: An Encyclopedia*, Ellis, L., (ed.), Garland Publishing Co., New York & London, 2000, Francis P. McManamon, <http://www.nps.gov/archeology/tools/laws/nagpra.htm> [accessed 30/11/15].
[41] Birkhold, M. H., 'Note: Tipping NAGPRA's Balancing Act: The Inequitable Disposition of "Culturally Unidentified" Human Remains Under NAGPRA's New Provision', *William Mitchell Law Review*, Vol. 37, No. 4, Art.5, 2011, p. 2069.
[42] Native American Graves Protection and Repatriation Act: After Almost Twenty Years, (2010); Daehnke, J., Lonetree, A., (2011); Chari, S., Lavallee, J. M. N., (2013).
[43] 'History of the Collections', *National Museum of the American Indian*, <http://nmai.si.edu/explore/collections/history/> [accessed 01/12/15].

American Indian in New York City to the Smithsonian Institution.[44] In addition, the act required the Smithsonian to construct, and carry out, an institution-wide repatriation policy regarding Native American human remains and various cultural materials.[45] According to the NMAI, repatriation is a 'uniquely proactive and collaborative process within their institution'.[46] Its Repatriation Office conducts its research independently from other Smithsonian repatriation programmes, and has a separate advisory committee.[47] These reports and recommendations are then sent for review to the NMAI's board of trustees.[48] According to the NMAI's website, its board of trustees is composed of several Native American members from differing tribes within the USA, as well as non-Native Americans, ensuring that Indigenous views are constantly present.[49] Furthermore, the board has sole authority over the disposition of the NMAI's collections, including decisions regarding the de-accessioning of items for repatriation.[50] The inclusion of Native American representative members on the board should ultimately prove beneficial for the swift repatriation of ancestral remains and cultural property; however, there still remain various political and legislative regulations to which all members must adhere under a government-funded institution such as the NMAI. Additionally, as examined in the previous chapter, with the establishment of a committee which is composed of or includes Indigenous representatives, similar to the ACIR, while presenting an Indigenous voice throughout the decision-making process, due to the variations in Indigenous opinions and cultural customs from different tribes throughout the country, committee members can provide only a 'collective' or homogenised Indigenous voice, with the need to conduct consultations with individual tribes apparent, in order to ensure that a unanimous or majority Indigenous opinion is being represented. While cultural diversity is an influential component to consider in

[44] National Museum of the American Indian, 'Repatriation', <http://nmai.si.edu/explore/collections/repatriation/> [accessed 01/12/15].
[45] Ibid.
[46] Ibid.
[47] Ibid.
[48] Ibid.
[49] National Museum of the American Indian, 'Governance', <http://nmai.si.edu/about/governance/> [accessed 01/12/15].
[50] National Museum of the American Indian, 'Repatriation', <http://nmai.si.edu/explore/collections/repatriation/> [accessed 01/12/15].

the processing of claims, it is apparent that for Indigenous communities which are distinctly diverse in their cultural practices and beliefs that clearer definitions and approaches must be defined.

Even so, the NMAI has recognised the need for institutions to adapt to the needs of Native Americans and update their methods of caring for and handling ancestral remains and adjoining funerary objects within their collections. Therefore, the NMAI stores and cares for all of the human remains and associated funerary objects within its collections at a separate Smithsonian facility, wherein they are looked after in a minimally invasive environment until they are returned to their affiliated native community or place of origin.[51] The separation of Indigenous remains and other human remains within an institution's collection is reflective of the NMA, as discussed in the previous chapter. Access to any human remains in the NMAI's possession is exclusive to the staff members who care for them and to official representatives of native communities seeking their respectful disposition.[52] This decision clearly demonstrates the institution's respect and moral obligation towards the remains within its collections, as well as their living descendants.

The efficacy of Native American cultural centres

While museums are historically a Western construct, the need for Native American tribes to create their own cultural centres reflects their desire to maintain their cultural practices and promote their tangible and intangible heritage to both Indigenous and non-Indigenous people. Though the effectiveness of established Indigenous cultural centres and museums has been criticised, in comparison to their more elaborate governmentally funded and Western counterparts, Simpson argues for their necessity, highlighting that Indigenous institutional models lead the way in developing methodologies which are relevant

[51] Ibid.
[52] Ibid.

to the communities that they serve.[53] In doing so, cultural centres conform to the basic philosophy of the museum.[54] Kreps examines the importance of incorporating Indigenous ways of working into the process of engagement and into the survival of cultural heritage itself. Kreps explains:

> The hegemony of Western museology and approaches to heritage preservation has contributed to two phenomena that pose a threat to Indigenous curation: 1) the global spread and reproduction of Western-oriented models, and 2) the reliance on expert-driven, top-down, professionalised/standardised museum training and development. Both of these forces can inadvertently undermine Indigenous curatorial practices and paradoxically the preservation of people's cultural heritage.[55]

Cultural centres or community museums tend to predominantly focus on displaying cultural materials and knowledge of the specific tribal community or communities which constructed them, such as the Museum of the Cherokee Indian, the Suquamish Museum, and the Iroquois Indian Museum. As examined by Simpson, this serves to reinforce the cultural identity and economic strength of the tribe, as well as revive and enhance its cultural history and art,[56] while additionally working to counteract the negative and stereotypical images of the 'Native Indian', as seen within the media.[57] Furthermore, cultural centres allow community members to connect with their ancestors and Elders through learning about the traditions of the past, thus ensuring the continuous longevity of their heritage for future generations.[58] Tribal museums also serve a political, as well as a social, role, as their federal funding provides for much of the financial framework for education, medical and social services, housing, and law enforcement on reservations.[59]

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[53] Simpson, M. G., *Making Representations: Museums in the Post-Colonial Era*, Routledge: London, 1996, p. 107.
[54] Simpson, M. G., (2001); Kreps, C., (2005; 2007); Stanley, N., (2007).
[55] Kreps, C., 'Indigenous Curation as Intangible Heritage: Thoughts on the Relevance of the 2003 UNESCO Convention', *Theorizing Cultural Heritage,* Vol. 1, No. 2, 2005, p. 4.
[56] Simpson, M. G., op. cit., p. 135.
[57] Ibid.
[58] Ibid., pp. 135–169.
[59] Ibid., p. 138.

In the repatriation process, various cultural materials and human remains handed over by museums reside within these centres, as it is ultimately the community's decision as to the desired future and method of interment of the remains or cultural property. While ancestral remains are ultimately interred, cultural material, on the other hand, may be displayed within cultural centres or tribal museums, acting as a means of education for the Indigenous and non-Indigenous public.

Unprovenanced remains within the United States of America

The NAGPRA has proven ultimately beneficial in the repatriation and restitution of Native American cultural material and ancestral remains, with the added support and compliance from national and international museums. While positive, the introduction of the act has, however, shed light on various limitations and restrictions, which has resulted in hundreds of culturally unaffiliated ancestral remains being classified as culturally unidentified, as similarly seen in Australia. The failure to provide proper procedures in respect of culturally unidentifiable human remains (CUHR) has sparked controversy amongst Native American communities. Some groups believe that alternative institutional motivations are responsible for the opposition to community claims of affiliation, or the stalling of the repatriation process, which may account for the fact that, overall, less than one third of human remains in museum and institutional collections have been affiliated to a specific tribe or region.[60]

In some instances, Native Americans have expressed their discontent towards museums and institutions, suggesting that they use the law's 'unaffiliated' classification to block various repatriation claims.[61] Consequently, Harry highlights that museums or federal agencies may purposefully hold on to human remains for continuous scientific study.[62] She suggests that DNA analysis has been used by institutions as a 'stopgap measure', in order to impede Indigenous

[60] Birkhold, M. H., op. cit., pp. 2060–2061.
[61] Lawler, A., 'Graves Dispute', *Science*, Vol.330, No. 6001, 2010, p. 168.
[62] Harry, D., op. cit., p. 175.

repatriation efforts, in an attempt to maintain custody of Native American remains within their collections, ensuring their continuous availability and preservation for future scientific study.[63] In some instances, it is almost impossible to identify the affiliated or unaffiliated cultural group when organising the repatriation of ancestral remains held for decades within an institution's collection. This may be due to the age of ancient remains, rendering it 'almost impossible to establish any relationship between the remains and presently existing American Indians',[64] as was previously discussed in Chapter Three. Therefore, as unprovenanced remains lack the necessary classifying information, no affiliation can be shown. As a result, no group can be identified as the most appropriate claimant, nor can a group be branded as inappropriate, since no one group has a closer relationship with the remains than any other.[65] In one particularly famous repatriation case, the court of law ruled that scientists were legally allowed the right to study a 9,400-year-old Paleoindian dubbed the 'Kennewick Man', which they proposed could not be affiliated to any Native Americans at all, due in part to his age.[66]

In May 2010, when reviewing comments accompanying the publication of the new regulation, the NAGPRA Review Committee noted the frustration that tribes have felt when requesting disposition of remains on the [culturally unidentifiable Native American human remains] database, only to be told that the institution is 'waiting for the final regulations to be published'.[67] Before the announcement of the new deposition, museums and agencies were allowed to maintain permanent custodianship of culturally unidentified remains and were not required to repatriate these remains upon request.[68]

In accordance with the newly amended disposition, inventories were conducted detailing culturally unidentifiable remains within institutions. In the preparation

[63] Ibid., p.164.
[64] Nafzinger, J. A. R., Paterson, R. K., Renteln, A. D., *Cultural Law International, Comparative and Indigenous*, Cambridge University Press: USA & England, 2010, p. 451.
[65] Birkhold, M. H., op. cit., p. 2083.
[66] Gerstenblith, P., (2002); Owsley, D. W., Jantz, R. L., (2002); Lawler, A., (2010); Herman, A., (2015).
[67] American Association of Physical Anthropologists, 'AAPA Position Statement on Kennewick Man', (2000); Birkhold, M. H., (2011); Lambert, P. M., (2016, p. 24).
[68] Birkhold, M. H., op. cit., p. 2060.

of the inventory, a museum or agency is required to use only the information that it already possesses to identify the geographical and cultural affiliation of each item.[69] This stipulation does not require museums to conduct extensive studies so as to determine the cultural affiliation, but rather only requires a 'good faith effort' to identify cultural affiliation based upon readily available evidence.[70] This tendency to apply a 'lax nature' in determining cultural affiliation within collection inventories has resulted in the over-classification of Native American remains as culturally unidentified.[71] Furthermore, the use of non-traditional evidence, such as oral history, as a means of interpreting and establishing cultural affiliation, where scientific investigation may fail, was dismissed.[72] Moreover, Robbins remarks that while tribal consultations are initiated in the assessment and evaluation of repatriation claims, scholars such as Riding-In (2009) and Bruchac (2010) have criticised legislation for providing museums with so much authority.[73] That being said, museum curators should not be vilified for following legislative protocols or NAGPRA frameworks and definitions in the evaluation and establishment of cultural affiliation to claimed remains. However, nor should museums use these regulatory standards and definitions to impinge on the evaluation of tribal claims towards unaffiliated ancestral remains.

Chip Colwell, Senior Curator of Anthropology at the Denver Museum of Nature and Science, remarked on the difficulties in ascertaining cultural affiliation. He reflects on the need for moral standing, respectful responsibility, duty of care, and correct provenancing to affiliated communities by the museum.[74] This not only gives authority to museums, but also places museums in a position of questionable legal grounds by rejecting the repatriation of human remains that are provenanced to unaffiliated communities.[75] Nevertheless, in recognising the cultural and moral

[69] Ibid., p. 2059.
[70] Ibid.
[71] Ibid.
[72] Ibid.
[73] Robbins, H. A., 'In Consideration of Restitution: Understanding and Transcending the Limits of Repatriation under the Native American Graves Protection and Repatriation Act (NAGPRA)', in *Museums and Restitution: New Practices, New Approaches*, Tythacott, L., Arvanitis, K., (eds.), Ashgate: England & USA, 2014, p. 113.
[74] Colwell, C., op. cit., pp. 234–250.
[75] Ibid.

importance of returning ancestral remains to their communities, some museums, such as the Denver Museum of Nature and Science, have taken their own initiative to work towards repatriating remains to known unaffiliated communities for burial, or alternatively working with affiliated communities which are teaming up with unaffiliated communities within the same region to initiate claims.[76] However, the latter option does prove problematic in the assessment and evaluation of ancestral remains that are provenanced to known unaffiliated communities.

As of March 2011, some 125,762 Native American human remains had been inventoried by 667 museums and federal agencies as 'unidentified'.[77] Of those, 8,640 had been affiliated or transferred since first being inventoried as culturally unidentifiable.[78] While this is a step in the right direction, there are, however, some groups which no longer remember traditional ceremonies, have taboos on handling the dead or lack the necessary time, money and organisation to provide for remains affiliated to their tribe, resulting in the retention of the remains within institutions.[79] Again, as previously mentioned, this is a very similar situation for many Australian Indigenous communities.

According to Birkhold, there are two fundamentally different types of culturally unidentified human remains: those that are 'truly unidentifiable' and those that are 'fallaciously unidentified'.[80] In the first category, affiliation is unknown due to age or collection practices, which have ultimately rendered evidence in support of affiliation incomprehensible or unreliable.[81] In the second category, remains are 'unidentified' because they are affiliated to the 'wrong' kind of native group, that is, the culture or people with whom they share a kinship but do not constitute a

[76] Ibid.
[77] Birkhold, M. H., op. cit., p. 2060.
[78] Ibid.
[79] Lawler, A., op. cit., p. 168.
[80] Birkhold, M. H., op. cit., p. 2068.
[81] Ibid.

federally recognised[82] tribe.[83] Consequently, these remains are rendered culturally unidentified, despite what might otherwise be considered a cultural affiliation outside of the meaning of the statute.[84] The unique definitions in the NAGPRA's dual inquiry process, therefore, result in remains that are affiliated in fact but not in 'law'.[85]

Since the initiation of the NAGPRA, fraught dialogue surrounding the definition and restriction of culturally affiliated and unaffiliated communities in the repatriation of ancestral remains has led to the initiation of a review committee, which, in 1995, distributed draft recommendations for culturally unidentifiable human remains.[86] While the NAGPRA Review Committee had previously met for the first time in 1992 in order to discuss and resolve the described status and disposition of culturally unaffiliated remains, no agreed solution or acknowledgment of the scale of the issue was recognised, with deep disagreement leaving the situation unresolved.[87]

Colwell quotes Francis McManamon, a National Park Service archaeologist who oversaw the 1992 meeting, who, at the time, reinforced that one of the biggest concerns surrounding this issue would be 'long gaps between a modern group that may have a legitimate claim, and an older culture or an older Native American group that is only known archaeologically from hundreds or thousands of years

[82] There are 562 federally recognised tribes in the United States. Historically, tribes have been granted recognition through treaties, by Congress, or through administrative decisions within the executive branch. In 1978, the Bureau of Indian Affairs established a regulatory process for recognising tribes. The current process for federal recognition is extremely rigorous and requires the petitioning tribe to satisfy seven mandatory criteria, including historical and continuous American Indian identity in a distinct community. Each of the criteria demands exceptional anthropological, historical and genealogical evidence. The vast majority of petitioners do not meet these strict standards, and far more petitions have been denied than accepted. Even so, federal recognition is important for tribes because it formally establishes a government–government relationship, as well as status as a sovereign entity which carries with it significant privileges, including exemptions from state and local jurisdiction. These exemptions generally apply to lands that the federal government has taken into trust for a tribe or its members. Additionally, federally recognised tribes are eligible to participate in federal assistance programmes, which can provide funding for vital community services (National Congress of American Indians, 'An Introduction to Indian Nations in the United States', p. 12, <http://www.ncai.org/about-tribes/indians_101.pdf> [accessed 15/04/17]).

[83] Birkhold, M. H., op. cit., p. 2068.

[84] Ibid.

[85] Ibid.

[86] Colwell, C., op. cit., p. 239.

[87] Ibid., p. 238.

ago'.[88] Nevertheless, Colwell illustrates quite clearly that though opposition towards the repatriation of unaffiliated remains may be present, there is a persisting acknowledgment that, though spiritually risky, the return and burial of Native American ancestors is morally right and, in essence, an act that truly represents the initial ideal and motivation which instigated the construction and need for the NAGPRA.[89] Unfortunately, the Society for American Archaeology (SAA) strongly objected to any recommendations or draft proposals made by the review committee, labelling them as 'premature' and criticising the review committee for singularly focusing its efforts on repatriation as the sole option in overcoming this issue.[90] That being said, though highly critical, the SAA neglected to provide any alternative solution, forcing ongoing debate and negotiation.[91]

The financial cost of repatriation and the requirements needed in order to ascertain the provenance or cultural affiliation of remains through scientific testing are some of the foremost concerns for those in opposition to the repatriation of unaffiliated human remains. Many museums within the USA lack the necessary funding to provide for such scientific analysis, or are merely prioritising resources elsewhere within the institution.[92] Anyon and Thornton remark on the inadequate financial backing by the US government in order to effectively implement repatriation, with only limited funding distributed to the Smithsonian Institution and the National Park Service so as to provide grants to tribes and museums.[93] This lack of funding has ultimately increased the financial burden for many Native American tribes, with various communities being simply unable to fund any repatriation activities,[94] which would ultimately inhibit their desire to put forth repatriation claims. Anyon and Thornton reiterate their aversion towards the expectation for tribes to fund their own repatriation

[88] Ibid.
[89] Colwell, C., op. cit., pp. 234–250.
[90] Ibid., pp. 240–241.
[91] Ibid.
[92] Ibid., pp. 242–243.
[93] Anyon, R., Thornton, R., 'Implementing repatriation in the United States: issues raised and lessons learned', in *The Dead and their Possessions: Repatriation in principle, policy and practice*, Fforde, C., Hubert, J., Turnbull, P., (eds.), Routledge: New York and London, 2002, p. 197.
[94] Ibid.

activities, suggesting that it 'adds insult to injury' when the main goal of the repatriation process is to right the wrongs of past museum and agency actions.[95] Therefore, Anyon and Thornton provide their own recommendations with regard to amending the effectiveness of the repatriation legislation within the USA, by reviewing the need for the provision of regular and adequate financial resources for both museums and Indigenous groups, in order to ensure the successful achievement of future repatriation.[96]

Some federally recognised tribes, such as the Hopi Tribe of Arizona, have taken their own initiative to conduct anthropological studies and research in order to assist and convince museums and federal agencies of the cultural affiliation of specific collections of Hohokam human remains and cultural material.[97] Ferguson et al. remarked that within the southwestern United States, several museums and federal agencies have acknowledged the cultural and historical relationship between the ancient Hohokam and present-day Hopi. There remain, however, several archaeologists who continually question the legitimacy of their affiliation, as the two tribes are located four hundred kilometres apart, with the Hopi Tribe located on the Colorado Plateau in Northern Arizona and the Hohokam an ancient group of farmers who lived in the desert basin and ranges of Southern Arizona.[98] In obtaining a grant from the National NAGPRA Program, the Hopi Tribe was able to recruit a team of archaeologists and tribal members to study the historically traceable identity that the Hopi people share with the Hohokam, in order to provide the information and documentation needed to establish a claim as prescribed by the NAGPRA and required by museums and agencies in their evaluations to ascertain a cultural affiliation.[99]

[95] Ibid.
[96] Ibid.
[97] Ferguson, T. J., et al., '*Yep Hisat Hoopoq'yaqam Yeesiwa* (Hopi ancestors were once here): Repatriation research documenting Hopi cultural affiliation with the Ancient Hohokam of southern Arizona', in *Global Ancestors: Understanding the Shared Humanity of our Ancestors*, Clegg, M., Redfern, R., Bekvalac, J., Bonney, H., (eds.), Oxbow Books: Oxford & Oakville, 2013, pp. 104–133.
[98] Ibid., p. 105.
[99] Ibid.

Even though archaeologists may be limited by the amount of presented physical evidence and data of particular social groups, Ferguson et al. emphasised that this does not mean that the groups did not exist or that they did not move to an alternative location.[100] Therefore, as prescribed by the NAGPRA, ten lines of evidence were required which were not solely archaeologically based.[101] Their migration paths, architecture, language evolution, oral traditions, ethnoarchaeological evidence (such as ceramics and relics), jewellery, religious totems and materials, iconography on textiles and basketry, discovered mortuary practices, and bioarchaeological data all indicate a close link between the two clans.[102] This, according to Ferguson et al., provided a sufficient amount of clear and convincing tangible and intangible proof of cultural affiliation.[103] In addition, Ferguson et al. noted the unanticipated impact of the NAGPRA, namely seen through unexpected and increasing interaction between archaeologists and Native Americans, which is producing positive and significant changes within archaeological practice,[104] and the acknowledgment and appreciation of Indigenous cultural practices and traditions, which are subsequently being brought into museum displays and public discourse.[105]

The establishment of the *Disposition of Culturally Unidentifiable Human Remains 2010* has provided the possibility of the repatriation of Native American human remains previously classified as culturally unidentifiable within institutions. With the anticipation of changes by the NAGPRA, various museums and institutions which house Native American human remains within their collections have amended various policies in order to include the repatriation of culturally unidentifiable human remains. For example, Stephen Forrest, Vice President for Research at the University of Michigan, issued a statement in 2009 highlighting that an advisory committee would be established which would advise Forrest on

[100] Ibid.
[101] Ibid., p. 110.
[102] Ibid., p. 126.
[103] Ibid.
[104] Ibid.
[105] Hooper-Greenhill, E., (1992); Simpson, M. G., (2001); Fforde, C., (2002, pp.25–46); Kreps, C., (2003); Turnbull, P., Pickering, M., (2010); Giesen, M., (2013, pp. 34–49); Besterman, T., (2014, pp. 19–36); Robbins, H. A., (2014); Colwell, C., (2017).

issues related to requests that the University of Michigan receives from Native American tribes for the transfer of CUHR and funerary objects from the Museum of Anthropology.[106] In addition, he specified that the members 'represent a variety of academic backgrounds, to bring their broad experience and scholarly perspectives to this sensitive and complex issue'.[107] Acting under the regulations of the NAGPRA, determined cultural affiliation to a federally recognised tribe is mandatory; however, consideration may be given to claims made by unaffiliated tribes.[108] Consequently, museums are to retain the possession of CUHR until final regulations are publicised or the US Secretary of the Interior explicitly approves an alternative recommendation.[109] In May 2010, the US Department of the Interior implemented rules that allow tribes to request 'culturally unaffiliated' remains found on their current or historical land.[110] The new rules affected roughly 120,000 Native American and Hawaiian remains.[111] Though this ruling has proven beneficial for Native American communities, it does, however, exempt unaffiliated funerary objects and cultural material from repatriation.[112] This change has sparked controversy amongst archaeologists who fear the loss of crucial and influential specimens and objects which would see the burial of a culture from the global sphere.[113] Even so, archaeologists, museums and agencies have recognised the importance of collaboration and consultation with the Native American people in order to support their efforts in reclaiming their heritage and cultural property.[114]

Through examining the various policies relating to culturally unidentifiable Native American human remains within the USA, it is apparent that they are either classified as culturally affiliated and, therefore, returned to a federally recognised

[106] 'U-M committee will advise about the transfer of culturally unidentifiable human remains', *Michigan News*, 15 October 2009, <http://ns.umich.edu/new/releases/7364-u-m-committee-will-advise-about-the-transfer-of-culturally-unidentifiable-human-remains> [accessed 02/12/15].
[107] Ibid.
[108] Ibid.
[109] Ibid.
[110] Lawler, A., op. cit., p. 168.
[111] Ibid.
[112] Ibid.
[113] Ibid.
[114] Simpson, M. G., (2001); Gerstenblith, P., (2002, pp. 167–170); Thornton, R., (2002, pp. 17–24); Robbins, H. A., (2014, pp. 105–118); Colwell, C., (2017).

tribe, classified as culturally unaffiliated but repatriated to a claiming tribe which may or may not be federally recognised, or culturally unaffiliated (resulting in their retention within a museum or agency). Though provenance is culturally significant, it is apparent that the US government's determined resolution surrounding this concern is to either establish cultural affiliation or maintain custody of the remains, with no indication of other alternative solutions being visibly taken into consideration. Though this decision does ensure that ancestral remains and cultural property are repatriated to their originating land or tribe, there are, however, other solutions which New Zealand has initiated, ensuring that the needs of ancestral remains and their living descendants are met by national museums and the New Zealand government.

New Zealand

The collection of Maori human remains

A relatively small and young country,[115] New Zealand has been increasingly proactive in the repatriation of Maori cultural material and ancestral remains on both a national and an international scale. Even though New Zealand museums and institutions hold a very small number of cultural objects affiliated to external Indigenous communities, Native Maori artefacts can be found in hundreds of international institutions, such as the Museum of Anthropology and Archaeology at the University of Cambridge, the British Museum, the Musée de l'Homme in Paris, the Smithsonian Institute, and the Ethnologisches Museum of Berlin. Maori cultural materials and specimens were predominantly sought after by Europeans from the late eighteenth century, and eagerly added to their ethnographical collections and cabinets of curiosities.[116] Of particular interest were Maori heads,

[115] New Zealand was first sighted by Dutch explorers in 1642 but was not reached or 'discovered' by Captain James Cook until 1769, later being colonised (Slot, B. J., (1992); Smith, P. M., (2012, pp. 24–28)).
[116] Simpson, M. G., (2001, p. 195); McCarthy, C., (2007, p. 15).

or *mokomokai*/*Toi moko,* which were traditionally preserved by Maori communities as trophies of tribal wars or as mementos of deceased loved ones.[117]

The traditional application of *Ta moko*[118] was an indication of not only whom the person was, but also his or her genealogy, traditional beliefs, and social standing within the community.[119] Though a *moko* can be adorned on any part of the body, within Maori culture the head is traditionally revered as the most sacred part of the body,[120] specifically after death.[121] Interestingly, captured tribal chief *mokomokai* played an integral role in peace negotiations between rival tribes, with the exchange of heads acting as a peaceful gesture with which to end wars or disputes.[122] Horatio G. Robley (1840–1930), an avid collector of Maori *Toi moko*, reinforced that the *mokomokai* of tribal chiefs were held in high regard and had immense value, so much so that they were never traded, as without the chiefs' *mokomokai,* peace could not be sustained.[123] The European lack of cultural understanding, or disregard for the significance which Maori heads hold within their heritage, including the differing meanings associated with the various designs adorned, may be a determining factor in why hundreds of heads and thigh skins were transferred overseas and displayed for their aesthetically enlightening and intriguing qualities.[124] Additionally, the heightened scientific value of Maori human remains used in the analysis of racial characteristics in the evaluation of evolutionary theories was widely acknowledged by Europeans from the late eighteenth century to the twentieth century, with cranial analysis, through the comparison of collected Maori heads, justifying the reasons for these acquisitions

[117] Robley, H. G., (2003); Gladstone, M., Berlo, J. C., (2011, p. 359); Te Awekotuku, N., Nikora, L. W., (2011); McKinney, N., (2014, p. 40).
[118] *Ta moko* is the traditional and sacred Maori practice of tattooing, often on the face (Robley, H. G., 2003, p. 3).
[119] Robley, H. G., (2003); Te Awekotuku, N., Nikora, L. W., (2011).
[120] Robley, H. G., (2003); Te Awekotuku, N., Nikora, L. W., (2011).
[121] Chambers, F., 'What to do with an ancient skull and head collection?', *BBC News Online*, 23 November 2013, <http://www.bbc.co.uk/news/uk-england-birmingham-24939696> [accessed 05/12/15].
[122] Robley, H. G., (2003); Palmer, C., Tano, M. L., (2004).
[123] Robley, H. G., (2003); Palmer, C., Tano, M. L., (2004).
[124] 'The Robley Collection at the American Museum of Natural History', *American Museum of Natural History & Museum of New Zealand Te Papa Tongarewa*, December 2014, <https://www.tepapa.govt.nz/sites/default/files/media-release-repatriation-history-of-the-robley-collection-2014.pdf> [accessed 10/06/17]; Robley, H. G., (2003).

as a means of providing greater understanding of the Maori people and an overall benefit to the scientific world.[125]

Thomas et al. remark on the 'souvenir' quality of the Tahitian tattoos first encountered by British sailors, who were fascinated by them and stimulated an interest which later resonated within the subcultures of Britain[126] and Europe and likely related to the interest and avid collection of Maori *Toi moko* by Europeans. Consequently, it is believed that Maori communities later began to preserve the heads of fallen enemies, as well as purposefully manufacturing *Toi moko* heads through gruesome killings and the tattooing of slaves[127] for the sole purpose of bartering with Europeans.[128] In some cases, the possible repatriation of preserved heads of enemies or slaves is viewed as undesirable due to the fear of possible spiritual disruption, a concept similarly present within the case of the Narrabeen Man in Australia, as previously examined in Chapter Three.

Horatio G. Robley's Maori *Toi moko* collection at the American Museum of Natural History is said to have been one of the most extensive collections outside of New Zealand, comprising thirty-five preserved Maori heads.[129] In 1887, following retirement from an extensive military service, Robley returned to London, where it was suggested that his fascination with collecting, and desire to collect, the best

[125] Garson, J. G., M. D., Read, C. H., F. S. A., (1892, pp. 5–6); Robley, H. G., (2003); Larson, F., (2014, pp. 17–46).

[126] On his voyages around the Pacific, Captain James Cook brought a tattooed Tahitian man, Omai (Mai), back to Britain, where he fascinated crowds of Europeans (see Chapter One). Cook's crew were so highly intrigued by the tattooed men whom they encountered on their voyages that they, too, acquired tattoos as souvenirs of their travels. Within a few years, tattooing became a British Navy tradition. Thomas et al., (2005, p. 74); see also Gay, K., Whittington, C., (2002, p. 31).

[127] The *Toi moko* is a highly traditional and spiritual practice, with the *moko* designs indicating an individual's unique and personal history and hierarchy within his or her community. In addition, the *moko* embodied an individual's *mana* (divine personal power and status). Therefore, tattooed slave heads were adorned with meaningless patterns so as to permit their use in the bartering of goods and resources with Europeans (Palmer, C., Tano, M. L., 2004, p. 2).

[128] The Library of Congress, 'Repatriation of Historic Human Remains: New Zealand', 6 September 2015, <http://www.loc.gov/law/help/repatriation-human-remains/new-zealand.php> [accessed 05/12/15].

[129] 'The Robley Collection at the American Museum of Natural History', *American Museum of Natural History & Museum of New Zealand Te Papa Tongarewa*, December 2014, <https://www.tepapa.govt.nz/sites/default/files/media-release-repatriation-history-of-the-robley-collection-2014.pdf> [accessed 10/06/17].

possible examples of *Toi moko* outside of any museum collection reached an estimate of over forty *Toi moko*.[130]

[Fig. 9] 'Robley and his mokomokai collection (1895)', Stevens, H., (1843-1925), *Wellcome Images-Wellcome Library,* London.

In addition to his collection, Robley published a book in 1896 entitled *Moko: Or Maori Tattooing,* which provided an in-depth analysis of Robley's observations of not only the cultural meaning behind the *Toi moko* designs and methods of preservation, but also the need for collecting and preserving this threatened practice. At the time of publication, belief in the probable extinction of such a cultural practice was feared by Western society, resulting in the extensive collection of such items by museums. For Robley, however, it was his intention for his collection to be returned to New Zealand, wherein they could be permanently preserved.[131] In 1899 and 1901, Robley approached the New Zealand government with an offer to sell his collection of *Toi moko*; however, on both occasions his offer was rejected. In 1907, Robley finally sold his collection, consisting of thirty-five *Toi moko*, two pieces of tattooed thigh skin, and a variety of Maori cultural objects, to the American Museum of Natural History (AMNH) after his offer was again rejected by the New Zealand government.[132] In December 2014, after a century of the *Toi moko* collection residing within the AMNH's collection, proceedings were initiated by the repatriation team of the Museum of New Zealand Te Papa

[130] Ibid.
[131] Ibid.
[132] Ibid.

Tongarewa (Te Papa Museum). At this time the Robley collection, along with twenty-four Moriori[133] skeletal remains linked to the collection of New Zealand naturalist Henry Hammersly Travers and forty-six Maori skeletal remains collected from the North Island of New Zealand, most of which were from Australian anthropologist Felix von Luschan's collection, were repatriated to New Zealand.[134]

Unlike the Native Americans, Maori ancestors were rarely buried along with funerary goods; therefore, it is unlikely that grave robbery was a contributing factor to the global dispersal of ancestral remains and cultural materials.[135] Though the trading of preserved heads and cultural commodities may be perceived to be a legal transaction, which may serve to oppose any claims for repatriation, it is the ethical and moral obligations towards the remains and Maori heritage which propel the need for repatriation.[136]

Drawing similarities to traditional Maori and Australian Aboriginal burial customs

Even though a common language is spoken by the Maori people, they are divided into various tribes or *iwi* historically.[137] Within the country today, the New Zealand

[133] The Moriori are the Indigenous Polynesian people of Rēkohu, also known as the Chatham Islands. Rēkohu is a group of islands to the east of the main New Zealand islands in the South Pacific (Repatriation Questions and Answers, Media Release, December 2014, American Museum of Natural History & Museum of New Zealand Te Papa Tongarewa, p. 3, <https://www.tepapa.govt.nz/sites/default/files/media-release-repatriation-qs-and-as-2014.pdf> [accessed 10/06/17]).

[134] History of the Maori ancestral remains returning from the American Museum of Natural History, [Media Release], December 2014, American Museum of Natural History & Museum of New Zealand Te Papa Tongarewa, <https://www.tepapa.govt.nz/sites/default/files/media-release-repatriation-history-of-maori-remains-2014.pdf> [accessed 10/06/17].

[135] 'Repatriation of Historic Human Remains: New Zealand', The Law Library of Congress, Library of Congress, 06/09/15, <http://www.loc.gov/law/help/repatriation-human-remains/new-zealand.php> [accessed 05/12/15].

[136] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa – Te Papa Tongarewa: Repatriation Claim – The British Museum. Additional Comments for the Board of Trustees', (2008); Herewini, T. H. H., Jones, J., (2016).

[137] The Library of Congress, 'Repatriation of Historic Human Remains: New Zealand', 6 September 2015, <http://www.loc.gov/law/help/repatriation-human-remains/new-zealand.php> [accessed 05/12/15].

government recognises a total of eighty-one *iwi*.[138] In addition to a common language which unites the Maori people in their identity, traditional Maori burial customs are similar in practice, with slight differentiation between *iwi*. These minor, albeit distinguishable, differences in mortuary practices are similarly observed within various Australian Aboriginal community mortuary practices, as described in Chapter Three, and are an important aspect in understanding the approach that Te Papa Museum uses to recognising these practices in constructing a solution to unprovenanced remains.

Te Papa Museum highlights that while all *iwi* maintain their own tribal identity based on genealogical lines, there are various fundamental points of unity found within Maori culture, which means that under certain circumstances, such as repatriation and restitution, one agency can act as a representative body or channel for the various *iwi*.[139] That being said, when necessary, all *iwi* will work together for the common benefit of Maori culture.[140] In 1987, the Maori people instigated a political movement for self-determination entitled *Kotahitanga*, which ensured a united response and voice in the acknowledgement of the various hardships that the Maori people were facing.[141] Nevertheless, it should not be refuted that there is a 'wide diversity of Maori knowledge and opinion on every topic'; however, in instances of repatriation, this unity is strongly expressed during the *powhiri* (welcome-home ceremony), wherein *iwi* from throughout the nation gather to pay their respect and show their joy towards the return of their ancestors.[142]

Much like any other native Indigenous community, burial practices and unique customs and traditions are adhered to by not only the deceased family and extended relatives, but also the entire community. The Maori believe that all entities have a *wairua* (spirit) as well as a physical body. Barlow (1991) remarked

[138] Ibid.
[139] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa – Te Papa Tongarewa: Repatriation Claim – The British Museum. Additional Comments for the Board of Trustees', *Museum of New Zealand Te Papa Tongarewa*, March 13, 2008, p. 133.
[140] Ibid.
[141] Ibid.
[142] Ibid.

that the earth itself is believed to retain a spirit that dwelt in the company of the gods before man was fashioned from the elements of the earth.[143] Through birth the spiritual essence and physical body are joined as one by the *mauri* (power of the gods).[144] In death the physical body is interred within Mother Earth, while the spirit is separated and lives on, free to travel the pathways in order to reach the gods who created it.[145] The significance of returning to one's land (and the subsequent spiritual release) so as to join one's community ancestors within the 'Dreaming' is a concept widely shared by Australian Aboriginals and their held belief in the continuous spiritual cycle within the landscape, both in life and in death.[146]

The dead play a central role in Maori traditions, as they are acknowledged at all gatherings, irrespective of the nature of the meeting, through various calls, speeches, songs and lamentations.[147] The continuous recollection of those who have passed away serves as a constant reminder to the Maori people of their genealogy and cultural obligations, as well as the importance of life, people and relationships.[148] It is a Maori belief that after death the person no longer belongs to his or her immediate kin, but rather to the *iwi.*[149] The Maori proverb 'While you are alive you are your own chief: when you die your *iwi* becomes your chief'[150] embodies this notion of community, identity and unity through death. In death the body is returned to the *marae* (meeting point) and it is the *iwi* who make decisions regarding the funeral and burial, even where, in some cases, there is conflict with the wishes of the immediate kin.[151] This truly signifies the significance and authority of the *iwi* within Maori culture.

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[143] Barlow, C., *Tikanga Whakaaro: Key Concepts in Maori Culture*, Oxford University Press: Auckland, Oxford, New York & Melbourne, 1991, p. 152.
[144] Ibid.
[145] Ibid.
[146] Berndt, R. M., *Australian Aboriginal Religion*, E. J. Brill: Leiden, 1974, pp. 7–9.
[147] Barlow, C., (1991, pp. 167–168); Higgins, R., Moorfield, J., (2003); Higgins, R., 'Tangihanga – death customs – Understanding tangihanga', Te Ara: The Encyclopedia of New Zealand, <http://www.TeAra.govt.nz/en/tangihanga-death-customs/page-1> [accessed 04/01/16].
[148] Ibid.
[149] Bolton, L., 'Repatriation Request from Karanga Aotearoa (Repatriation Unit), Te Papa Tongarewa (Museum of New Zealand)', Report on discussions held in New Zealand, *Museum of New Zealand Te Papa Tongarewa*, 27 September 2007, p. 109.
[150] Ibid.
[151] Ibid.

Though each member of the *iwi* has his or her own unique burial chants and dances which are encompassed within the mortuary process, the traditional Maori ceremony dedicated to the mourning of a deceased person is referred to as the Tangihanga, or more commonly called a *Tangi.* The term *Tangi* itself means to 'weep' or, in turn, 'lament' for the dead.[152] Though the burial process of the body has evolved and adapted to the demands of modern society, the fundamental essence of the ceremony and its traditional values remain constant. Traditionally, the deceased were buried in shallow graves, or placed in secret locations such as caves or trees.[153] As highlighted within the text entitled *Maori Death Customs*, Oppenheim remarks on the variations of the burial and disposal of ancestral remains, suggesting that in some cases the body would be alternatively weighted down and buried in the sea or in a deep pool of water.[154] Through Oppenheim's own personal communication with Harry Dansey (1920–1979),[155] it is highlighted that on the North Island of New Zealand, at Rotorua, burials in water were observed; however, these methods were only used, until more recent times, for low-ranking members in their communities.[156]

High-ranking individuals, such as chiefs, were subjected to a secondary burial process, wherein a priest would conduct an exhumation ceremony, the decomposed remains would be collected, the remaining flesh scraped off, and the bones washed, painted with red ochre and returned to their previous place of

[152] Oppenheim, R. S., (1973, p. 37); Barlow, C., (1991, pp. 122–123).
[153] Oppenheim, R. S., (1973); Rawinia Higgins, 'Tangihanga – death customs – Understanding tangihanga', <http://www.teara.govt.nz/en/tangihanga-death-customs/page-4> [accessed 04/01/16].
[154] Oppenheim, R. S., (1973, pp. 62–63); Higgins, R., 'Story: Tangihanga – death customs, Page 4 – The tangihanga process', Te Ara: The Encyclopaedia of New Zealand, Manatū Taonga Ministry for Culture and Heritage, 15/12/14, <http://www.teara.govt.nz/en/tangihanga-death-customs/page-4> [accessed 04/01/16].
[155] Harry Dansey was a Maori journalist, writer, cartoonist, broadcaster, local politician, and race relations conciliator, advocating Maori culture, as well as various issues and affairs, to the greater public throughout his lifetime (Dansey, H. R., Dansey, T. R. D., 'Dansey, Harry Delamere Barter', *The Encyclopedia of New Zealand Biography*, Vol. 5, 2000, <http://www.TeAra.govt.nz/en/biographies/5d3/dansey-harry-delamere-barter> [accessed 14/06/17]).
[156] Oppenheim, R. S., *Maori Death Customs*, A.H. & A.W. Reed: Wellington, Sydney, London, 1973, pp. 62–63.

burial (within a tree or cave) or to the *marae*[157] within their *iwi*. They would then be displayed on a platform to be mourned over again in a similar ceremony to the Tangihanga.[158] What is of particular note is that the described manner in which chiefs' remains were prepared for their final interment is similar in nature to that of various Australian Indigenous communities throughout Australia, as noted by Meehan and Davidson in Chapter Three.

As tribal wars were prevalent within Maori history, concerns over the safety of their deceased chiefs, as well as high-ranking individuals, meant that the final stage of interment of these remains was undertaken in secret, ensuring that enemies of the deceased or their associated clan could not retrieve the bones and desecrate or dishonour them in any way.[159] Overall, it is customary for deceased Maori to be buried. Cremations, though a rare occurrence, were usually conducted in the case of disease, or for the prevention of remains being captured by enemies if the deceased had passed away in enemy territory.[160] It is only more recently that the practice of cremations within the Maori community has been accepted.[161] Traditionally, grieving took many forms, including the use of shells or flint to lacerate the body or, in extreme cases, suicide.[162] As grieving serves as an important element in emphasising one's love and reverence towards a deceased family member, it would seem appropriate to allow a designated space for the

[157] A *Marae* (Community Facility) acts as the main open area or community meeting place, traditionally located directly in front of the sacred carved house. It is a place which acts as a symbol of tribal identity and solidarity (Barlow, C., 1991, p. 73).
[158] Oppenheim, R. S., (1973, pp. 62–63); Barlow, C., (1991, pp. 122–124).
[159] Higgins, R., 'Story: Tangihanga – death customs, Page 4 – The tangihanga process', Te Ara: The Encyclopaedia of New Zealand, Manatū Taonga Ministry for Culture and Heritage, 15/12/14, <http://www.teara.govt.nz/en/tangihanga-death-customs/page-4> [accessed 04/01/16].
[160] Ibid.
[161] Herbert, A., 'Protocols and Customs at the Time of a Maori Death', a paper prepared to assist those working with Maori at the time of a death, *The University of Auckland*, June 2001, p. 10.
[162] European missionary Thomas Kendall recalled attending the tangihanga for 'Toutoro' (Tautoro) in 1814: 'The corpse was neatly wrapped up in the clothing which had been worn by the deceased. The feet, instead of being stretched out as is customary in England, were 'gathered up' in such a manner by his sides that I could not discern them. I heard bitter lamentations of the women and the funeral song or ode of the men. I witnessed a mock fight as part of the ceremony, and the whole party, consisting of two or three hundred, feasting upon sweet potatoes by way of conclusion. The women, who were about six in number and related to the deceased, cut their faces, breasts and arms with shar shells until they were covered with blood.' (Elder, J. R., *Marsden's lieutenants*. Dunedin: A. H. Reed, 1934, p. 64).

interment of unprovenanced ancestral remains in order to demonstrate their grief and pay their respects in their own way.

Despite various changes, perhaps for the better, to all of the Maori customary practices still conducted today, the ceremonies pertaining to the dead are, undoubtedly, the closest to the forms practised prior to the arrival of Europeans.[163] For this reason, of all Maori gatherings, the Tangihanga is seen as the most momentous and perhaps most important.[164] The variations of these ceremonial practices are included in one form or another within the handover of ceremonies during the repatriation process today.[165]
Elder Tīmoti Kāretu stated:

> Ki te wareware i a tātau tēnei tikanga a tātau, arā te tangi ki ō tātau tūpāpaku, kātahi tō tātau Māoritanga ka ngaro atu i te mata o te whenua ki te Pō, oti atu.
> (If we forget our cultural practices, particularly those pertaining to the dead, then our very essence of our existence as Maori will be lost from the face of this earth, to the underworld forever.)[166]

While burials are, in the present day, the more commonly occurring mortuary practice amongst Maori communities, as has been discussed, traditional Maori mortuary practices varied between *iwi* and must be recognised and acknowledged in the process of repatriating both provenanced and unprovenanced ancestral remains. As examined in Chapter Three, variations and similarities in traditional Aboriginal mortuary practices were observed in Australia, and have also been an important element to consider in repatriation deliberations with communities. It is evident that for both the Maori and the Australian Indigenous people, interment of ancestral remains is paramount in ensuring spiritual respect and harmony for their ancestors in the 'hereafter'. However, as described in Chapters Three and Four, there are various community concerns and hesitations regarding

[163] Salmond, A., (1975); Higgins, R., Moorfield, J., (2003); Te Huia, T., (2016, p. 23).
[164] Oppenheim, R. S., op. cit., pp. 121–123.
[165] As was detailed by the Te Papa Museum repatriation representatives at Warrington Museum following the handover of Maori ancestral remains to Te Papa representatives, 24 October 2013.
[166] Te Huia, T., 'General Manager Māori Health Report', page 1 of 8: p.2, in Maori Relationship Board Meeting, 9 March 2016, Te Waiora Meeting Room, District Health Board Corporate Office, Hastings, Hawke's Bay District Health Board: Whakawateatia, p. 23.

unprovenanced remains and the possible burial of these remains on unaffiliated community boundaries. Deliberations surrounding the repatriation and interment of Maori unprovenanced ancestral remains, and the various proposed options serving as a solution to the issues that they present, will be further examined in this chapter.

In recognising the importance that burial customs have for both living and deceased Maori, in addition to recognising their cultural needs and the social inequality to which they were subjected in the past, the New Zealand government, much like the Australian and US governments, has sought to heal the wounds of past colonial injustices through initiating institutional policies and governmental legislation so as to instil Maori autonomy over their heritage within a bicultural society.

New Zealand government and legislative decisions

New Zealand has paved the way in Anglo-Indigenous cooperation, becoming a bicultural and bilingual country which recognises and demonstrates respect towards Maori culture, its people and its traditions.[167] Recognised by Hole as being in the best position of any Indigenous people in the world when it comes to rights and self-determination,[168] it is clear to see that through various acts and affiliated councils, such as the *Maori Welfare Act 1962* and the subsequent New Zealand Maori Council, the New Zealand government has instilled unity through empowering and supporting Maori people and their heritage.

New Zealand demonstrated its support for both national and international cultural awareness by signing both the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Cultural Property (1970) in 2007 and the UNIDROIT Convention on Stolen or Illegally

[167] Sullivan, K., 'Bicultural Education in Aotearoa/New Zealand: Establishing a Tauiwi Side to the Partnership', *New Zealand Annual Review of Education*, No. 3, 1994, pp. 191–222.
[168] Hole, B., op. cit., p. 15.

Exported Cultural Objects (1995) in 2006.[169] New Zealand's own 1975 Protected Objects Act implements both of these international conventions, as highlighted within Section 1A of the statute, while detailing the various restrictions and requirements to be adhered to. In addition, the act refers to the controlled sale of *ngā taonga tūturu,*[170] declaring within Part 2: Section 11(1) of the 2006 Amended Act:

> Any taonga tūturu found anywhere in New Zealand or within the territorial waters of New Zealand after the commencement of this Act is hereby declared as deemed to be prima facie the property of the Crown: provided that where any taonga tūturu has been recovered from the grave of any person or persons whose identity is known the matter shall be referred to the Maori Land Court to determine who is the proper person or who are the proper persons to hold custody of the taonga tūturu.[171]

This legislation clearly indicates the presence and participation of Maori voices in the governance of New Zealand, and specifically issues relating to their heritage.

In 1992, the Museum of New Zealand Te Papa Tongarewa Act was passed. This act indicated that with the construction of the Museum of New Zealand Te Papa Tongarewa, this new museum would ultimately serve to unite the pre-existing National Museum and National Art Gallery as one unit so that the history of New Zealand and all of its heritage could be shared in an interdisciplinary way. Te Papa Museum would act in partnership with the *Tangata Whenua*[172] and the

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[169] The Library of Congress, 'Repatriation of Historic Human Remains: New Zealand', 6 September 2015, p. 12, <http://www.loc.gov/law/help/repatriation-human-remains/new-zealand.php> [accessed 05/12/15].

[170] The term refers to items relating to Maori history, culture and society and was or appears to have been manufactured or modified in New Zealand by Maori; or was brought into New Zealand by Maori; or was used by Maori; or is more than fifty years old. 'Taonga Tūturu', Manatū Taonga Ministry of Culture and Heritage, 04/02/13, New Zealand Government, <http://www.mch.govt.nz/nz-identity-heritage/protected-objects/taongatuturu> [accessed 03/01/16].

[171] New Zealand Government, 'Part 2: Ngā taonga tūturu ownership and Maori Land Court, 11: Establishing the ownership and custody of Ngā taonga tūturu, 1 November 2006, by section 15 of the Protected Objects Amendment Act 2006 (2006, No. 37), Protected Objects Act 1975', New Zealand Legislation, *Parliamentary Counsel Office Te Tari Tohutohu Paremata*, <http://www.legislation.govt.nz/act/public/1975/0041/latest/DLM432422.html?search=sw_096be8ed8009e3ad_taonga+t%c5%abturu_25_se&p=1#DLM432422> [accessed 05/01/16].

[172] A Maori term used in reference to the Indigenous people of New Zealand.

Tangata Tiriti,[173] speaking with authority, in representing and appealing to New Zealand's increasingly diverse society, while acting as a place for discussion, debate, involvement and celebration through linking the past with the present and future.[174] Previously, within New Zealand, cultural institutions such as the Old Dominion Museum in Wellington were, for a time, regarded as 'colonialist' and 'monocultural'.[175] However, with the reopening of the Te Papa Museum in 1998 at its new waterfront location, and with its new, redefined purpose in constructing a bicultural environment, the added contribution of Maori staff and cultural participation have aided in promoting cultural appreciation and reconciliation between Indigenous and non-Indigenous New Zealanders. Though faced with various restrictions as a government-funded national museum, Te Papa Museum has proven exemplary in its efforts to support Maori issues, specifically in its attempts of the restitution of sacred cultural material and the repatriation of Maori ancestral remains from national and international institutions.

Housing their own *wahi tapu* or 'ancestral remains vault', the only one in the country specifically designed to accommodate unprovenanced remains,[176] in May 2003, senior ministers agreed that Te Papa Museum should act on behalf of the New Zealand government for the return of all Maori and Moriori skeletal remains, including *Toi moko*.[177] This decision included the approval of additional funding to support continuous operations for the repatriation programme. This funding facilitates ongoing research into provenancing, repatriation travel, freight and crating, as well as associated expenses for international and domestic repatriation.[178] The funding explicitly does not, however, provide for the purchase of human remains,[179] nor do they believe that any institution should expect

[173] A Maori term used to refer to the people in New Zealand by right of the Treaty of Waitangi (1840).
[174] Our history, Museum of New Zealand Te Papa Tongarewa, Te Papa Collections Online, 2004, <http://www.tepapa.govt.nz/AboutUs/history/Pages/default.aspx> [accessed 05/01/16].
[175] Hole, B., op. cit., p. 18.
[176] Ibid.
[177] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme Background Document', UNPROVENANCED KŌIWI TANGATA OPTIONS RE: FINAL RESTING PLACE, *Museum of New Zealand Te Papa Tongarewa*, August 2011, p. 4.
[178] Ibid.
[179] Ibid.

payment in exchange for Indigenous human remains on a moral and professional basis.

In addition to the Museum of New Zealand Te Papa Tongarewa Act, Te Papa Museum has constructed its own repatriation programme, specialising in liaising with both international and national institutions for the return of any ancestral remains to New Zealand and, if possible, their originating *iwi*. In 2003, the Karanga Aotearoa Repatriation Programme was initiated as a government-mandated authority that negotiates the repatriation of Maori ancestral remains on behalf of the Maori.[180] The name itself was specifically designed for the programme by the late Te Ikanui Kapa (Ngäti Kuri), a Maori language expert and esteemed Elder, to convey Maori people's desire to see their ancestors returned home and, thereby, the corresponding longing of their ancestors' spirits to be also returned.[181] According to Te Papa Museum, the term *Karanga* (or 'beckoning call') refers to a spiritual dialogue imbued with sacredness, as it reunites the living with their loved ones who have passed on under the mantle of their 'eponymous ancestry' and within their homeland.[182]

Based at Te Papa Museum, the programme is composed of a small team, which comprises two researchers (who determine provenance and prepare repatriation claims), a manager (who negotiates and implements the return of ancestral human remains), and a coordinator (who provides logistical support for the team).[183] The research team also has the added support of other specialised museum staff, such as Maori curatorial and collection management staff, resident Maori Elders, conservators, and crate makers.[184] There are four designated

[180] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme', NGÄTI TÜWHARETOA REPORT: A summary report of the hui ā rohe held at Waitetoko marae, Te Rangiita Taupönui a Tia, *Museum of New Zealand Te Papa Tongarewa*, on Saturday, 13 October 2012, Agenda Item 6.1.
[181] Ibid.
[182] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme', MATAATUA HUI Ā ROHE REPORT: A summary report of the hui held at Te Rūnanga o Ngāti Awa, Whakatane, *Museum of New Zealand Te Papa Tongarewa*, on Tuesday, 7 June 2011, p. 3.
[183] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme Background Document', UNPROVENANCED KŌIWI TANGATA OPTIONS RE: FINAL RESTING PLACE, *Museum of New Zealand Te Papa Tongarewa*, April 2010, p. 6.
[184] Ibid.

components which provide a base that drives the programme: continued scoping and research to aid and add to existing knowledge; negotiations with international institutions and communities; the physical act of repatriation, including the handover ceremony; and the technical organisation required for the domestic return of the remains to their final resting place.[185] As discussed in previous chapters, the ACIR, the NMA, and individual Australian state museum repatriation teams use similar components to those described above in their own approach to and processing of repatriation claims.

It is clearly highlighted throughout the Karanga Aotearoa Repatriation Programme Resources that there is a strong connection between both Te Papa Museum and the Maori people when ensuring that their views and customs regarding the repatriation of their ancestors, from both national and international museums, are constantly met and respected.[186] It is imperative that they remain up to date with various developments surrounding policy changes, and specifically any repatriation case which may be relevant to a particular community. It is continuously reiterated that the main initiative and driving force of the programme is the ultimate return of ancestors to their descendants.[187] In August 2011, Te Papa Museum reported in its Karanga Aotearoa Repatriation Programme Background Document, which pertained to unprovenanced remains, that close to 190 ancestral remains, including *Toi moko,* had been repatriated from fourteen different countries, with eighty-two of those ancestors being successfully returned to their place of origin.[188] Nevertheless, the Karanga Aotearoa Repatriation Programme still estimates that there are over five hundred ancestral remains still awaiting return.[189]

[185] Museum of New Zealand Te Papa Tongarewa, 'The Karanga Aotearoa Repatriation Programme Resource 1-11', *Museum of New Zealand Te Papa Tongarewa*, p. 1.
[186] Ibid., p. 2.
[187] Ibid.
[188] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme Background Document', UNPROVENANCED KŌIWI TANGATA OPTIONS RE: FINAL RESTING PLACE, *Museum of New Zealand Te Papa Tongarewa*, August 2011, p. 5.
[189] Ibid.

With regard to the domestic repatriation of remains, the *iwi* play an integral and leading role in initiating all arrangements, including the place, time and details of the repatriation and, ultimately, the burial or funerary rights involved.[190] Some *iwi* even choose to make their own burial containers and collect their ancestors from Te Papa Museum, while others have asked museum staff to escort their ancestors home to their *marae*.[191] Te Papa Museum's role at this stage of the repatriation process is simply that of being supportive of *iwi* wishes.[192] An institution's shift to a supportive role once the handover of ancestral remains is conducted is also present within Australia (see Chapter Four), as the official role and intervention of the institution are no longer necessary within the final stages of interment. The National Services Te Paerangi is an additional support network under the institutional division of Te Papa Museum, which works with museums, *iwi* and related New Zealand organisations in ensuring that treasures and their stories are valued expressions of the Maori culture, both past and present, and that proper care and conservation of these treasures are maintained in order to ensure their ongoing role in the future identity of New Zealand.[193] Moreover, the Development Officer service provides additional support to museums, art galleries and *iwi* to ensure that they are able to access the information and services required, providing face-to-face support and advice on a variety of museum issues.[194] It is clear to see that through legislation, policies and established programmes, New Zealand and Te Papa Museum have striven to ensure that Maori views and beliefs, both past and present, are considered and included within New Zealand's presented history and future.

[190] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Background Document', *Museum of New Zealand Te Papa Tongarewa*, January 2012, p. 6.
[191] Ibid.
[192] Ibid.
[193] PERIODIC REPORT ON THE CONVENTION FOR THE PROTECTION AND PROMOTION OF THE DIVERSITY OF CULTURAL EXPRESSIONS, Reports submitted by States parties under article 9 of the Convention, New Zealand, 2012, pp. 20–21.
[194] Ibid.

Methods used to establish the precise provenance of Maori ancestral remains

As is the case for both Native Americans and Indigenous Australians, the burial of ancestral remains within their initial place of origin is paramount within Maori culture. With the repatriation process conducted on a global scale, it has been observed that many remains repatriated from international institutions have limited to no known provenance. As invasive scientific testing is not an approach that the Karanga Aotearoa Repatriation Programme at Te Papa Museum employs, a non-invasive approach is instead taken to international and national repatriation. Archival sources, including accession information, collector diaries and documents, and auction house records, are extensively examined as the preferred method, combined with traditional Maori oral history and songs.[195] These non-invasive provenancing techniques are similar to those used by repatriation representatives in Australian museums, as described in Chapter Three. Te Papa Museum emphasises that all of these resources are merged into what is referred to as a 'process of research triangulation' in an attempt to identify common strands and connecting points.[196] However, if these records are not readily provided or sent with repatriated remains, or if records are simply missing, destroyed or were never completed in the first place, provenancing ancestral remains to *iwi* becomes increasingly difficult or, in some cases, almost impossible. Nevertheless, it is apparent that New Zealand museums are in a better position when it comes to provenancing remains, due to the various resources provided and the professional ethos of readily consulting with Maori *iwi*. For some ancestral remains this process is reasonably straightforward, particularly if reliable records exist regarding the circumstances of acquisition; this, however, is not always the case, with the number of unprovenanced ancestral remains increasingly growing.

As part of its policy, Te Papa Museum does not accession repatriated *Toi moko* or ancestral remains into its collections, nor are they ever permitted to be

[195] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Background Document', *Museum of New Zealand Te Papa Tongarewa*, January 2012, p. 4.
[196] Ibid.

exhibited.[197] Rather, Te Papa Museum acts as a custodian of ancestral remains, merely facilitating the repatriation process, leading to their ultimate interment within their community and their spiritual release, much the same as the National Museum of Australia. This is Te Papa Museum's ultimate goal for repatriation, reinforcing that the 'Maori and Moriori believe that through this ultimate return to their domestic homelands, the dead and their living descendants will be given their dignity'.[198] This belief is similarly held by the Australian Aboriginal and Torres Strait Islander peoples, as discussed in previous chapters.

There are, however, rare occurrences, specifically relating to the repatriation of preserved heads, wherein even though provenance may be known, the circumstances under which the ancestor lived and died, such as his or her position within society, may impact on a community's decision to have the remains returned to their tribe, fearing that any negative spiritual disturbance that may have occurred will be perpetuated on the living descendants. As observed in Australia, some Maori communities have had traditional customs negatively affected by the impact of colonisation, so much so that some communities are currently unable to make consensual decisions or take adequate care of repatriated ancestral remains.[199]

Brian Hole reports on Te Rangi Hiroa, also known as Sir Peter Henry Buck, whose recollections noted in his text entitled *The Coming of the Maori* that Horatio Gordon Robley's *mokomokai* collection of preserved heads, then displayed in New York, had previously been offered for sale to the New Zealand government; however, the offer of sale was declined:

> Perhaps it is better that they did not come home, for some of the specimens with blurred and hastily executed details bear eloquent witness to one of the effects of the white man's encouragement of native art for commercial purposes.[200]

[197] Ibid.
[198] Ibid.
[199] Hole, B., op. cit., p. 21.
[200] Ibid., p. 22.

Hole, however, details a counterview from a personal communication with Te Hau Tutua in 2006, wherein he suggests that such heads should be returned but not reburied, instead being made available to modern artists so as to study the *Ta moko* adorned on the preserved heads for the purpose of reviving the traditional art form.[201] Nevertheless, the overwhelming desire of the Maori is to see lost ancestors returned home and their spirits, which have dwelt in unrest for many years within institutions, be released and, therefore, finally at peace in their homeland. Even though all efforts have been made to establish the provenance of repatriated Maori ancestral remains, there are, however, many which cannot be connected to *iwi,* remaining lost and confined to an institution.

Dealing with unprovenanced Maori ancestral remains

Though the repatriation team at Te Papa Museum continues to work in the attempt to establish provenance of repatriated ancestors, the process is slow and, in some cases, unattainable. These unprovenanced *kōiwi tangata*[202] are located in the consecrated repositories at Te Papa Museum, and may have even been stored within the museum for a number of years. While some of these unprovenanced ancestral remains have been repatriated from overseas institutions, and although there is certainty that they are of Maori and New Zealand origin, documentation detailing the *iwi* or regions from which they originated has been subsequently lost over time.[203] There are approximately five hundred *kōiwi tangata* registered in Te Papa Museum repositories, 166 of which do not have any known provenance.[204] This number is likely to increase as repatriation grows in popularity and more overseas institutions are repatriating Maori ancestral remains.[205]

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[201] Ibid.

[202] *Kōiwi tangata* refers to all Maori and Moriori skeletal remains, including *Toi moko* (Maori preserved tattooed heads) (Museum of New Zealand Te Papa Tongarewa, 'The Karanga Aotearoa Repatriation Program Resource 1-11', *Museum of New Zealand Te Papa Tongarewa*, p. 2).

[203] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme Background Document', UNPROVENANCED KŌIWI TANGATA OPTIONS RE: FINAL RESTING PLACE, *Museum of New Zealand Te Papa Tongarewa*, April 2010, p. 13.

[204] Ibid.

[205] Ibid.

Due to the vast number of unprovenanced remains, an alternative permanent solution is being sought. In conducting various *Wananga,*[206] the Te Papa Museum repatriation team is able to gain feedback from various communities on the most appropriate option to take into consideration for a solution to this dilemma.[207] In October 2012, Karanga Aotearoa organised a *Hui a Rohe* (assembly) for tribal Elders and *iwi* representatives from Te Rohe o Ngäti Tüwharetoa. This *hui* was held, with more than twenty representatives in attendance, to discuss repatriation issues pertaining to *Toi moko*, *kōiwi tangata*, and options for a final resting place for unprovenanced *kōiwi tangata*.[208] From these discussions, two options were perceived by members to be plausible solutions. The first option includes the placement of a burial place or keeping place at Te Rerenga Wairua in the Taitokerau, also referred to as Cape Reinga. This option was believed to be a 'good *tono* [invitation]'.[209]

Following this line of thought, there were also proposals from various Elders and *iwi* members for the possible construction of their own Te Rerenga Wairua in their own territory for their own people.[210] This option is one which holds strong links with both ancestral beings and traditional customs relating to the ancient Maori, as Cape Reinga (or Te Rerenga Wairua) translates to the 'leaping-place of the spirits'.[211] It is there that the Maori believed that the spirits of the dead departed the island of New Zealand to return to *Hawaiki*, the original home of the Maori

[206] *Wananga*: forums of higher learning (Museum of New Zealand Te Papa Tongarewa, 'The Karanga Aotearoa Repatriation Program Resource 1-11', *Museum of New Zealand Te Papa Tongarewa*, p. 1).
[207] Previous discussions surrounding the final resting place for unprovenanced ancestral remains were considered by participants at the National Repatriation *Wananga* held in 2004, 2005 and 2006 (Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme Background Document', UNPROVENANCED KŌIWI TANGATA OPTIONS RE: FINAL RESTING PLACE, *Museum of New Zealand Te Papa Tongarewa*, April 2010, p. 14).
[208] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme', NGÄTI TÜWHARETOA REPORT: A summary report of the hui ā rohe held at Waitetoko marae, Te Rangiita Taupönui a Tia, *Museum of New Zealand Te Papa Tongarewa*, on Saturday, 13 October 2012, Agenda Item 6.1, p. 3.
[209] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme', MATAATUA HUI Ā ROHE REPORT: A summary report of the hui held at Te Rūnanga o Ngāti Awa, Whakatane, *Museum of New Zealand Te Papa Tongarewa*, on Tuesday, 7 June 2011, pp. 5–6.
[210] Ibid.
[211] Mitcalfe, B., 'Te Rerenga Wairua – Leaping Place of the Spirits', *National Library of New Zealand Te Puna Mātauranga o Aotearoa*, June 1961, No. 35, pp. 38–39, <http://teaohou.natlib.govt.nz/journals/teaohou/issue/Mao35TeA/c20.html> [accessed 04/01/16].

people.[212] In view of this, Mitcalfe suggests that there is no more appropriate point of departure for the journey between the living and the dead than Te Rerenga Wairua.[213] This, he believes, is emphasised not only by its desolate appearance, but also by its placement at the northwestern extremity of the island, angling towards the Pacific and the islands of origin.[214] Mitcalfe continues, illustrating that most Polynesian islands have a point at which the spirits 'pass on', and as they move northward through the Pacific, the point of each island swings westward, homing towards 'mysterious' and 'enigmatic' *Hawaiki*.[215] In death the Australian Aboriginals similarly undertake a journey back to their Mother Land; however, unlike the Maori, their journey is limited to their homeland or 'Country', where they remain within the landscape until such a time that they are reborn into the landscape.[216] It does not extend across the seas towards a far-off world. The Maori believe that once the spirit has passed this point, there is no return from unconsciousness back to the land of the living.[217] There, the ancestral spirits undergo a transformation which equips them for their long journey across the seas towards *Hawaiki*.[218] These seas are the waters of life which have taken the ancestors of countless generations of Maori deceased to their final destination.[219] In addition, the inclusion of water within Maori burial customs, through the spiritual cleansing ceremony of the exhumed bones,[220] supports the option of laying these unknown ancestral remains at Te Rerenga Wairua in the Taitokerau.

The second option suggested holds similarities to the ACIR's propositions regarding the placement of unprovenanced Australian Indigenous ancestral remains within a mausoleum or cemetery dedicated solely to unprovenanced remains, as discussed in the previous chapter. Within New Zealand, it was proposed that Wellington would prove an ideal place for the construction of such

[212] Ibid.
[213] Ibid.
[214] Ibid.
[215] Ibid.
[216] Clifford, A., *The Geologic Model of Religion*, GMReligion.com: UK, 2012, p. 254.
[217] Mitcalfe, B., op. cit., pp. 38–39.
[218] Ibid.
[219] Ibid.
[220] Ibid.

a facility, due to the close proximity that it would have to Te Papa Museum. Within the 2011 report, the relationship between the cemetery or mausoleum and Te Papa Museum would be centred on the principles of *Kaitiaki Taonga* (safekeeping of treasures) and *Kaitiaki Tūpuna* (safekeeping of ancestors).[221] Considering the historical circumstances under which the ancestral remains were removed, the forum supported the position that the country needs to take more responsibility for unprovenanced remains and work towards an appropriate and approved solution.[222]

In September 2007, Lissant Bolton, Keeper of the Department of Africa, Oceania and the Americas at the British Museum, visited New Zealand for the purpose of consultation with Te Papa Museum's repatriation team regarding its request for the repatriation of sixteen human remains from the British Museum's collection.[223] Through consultations with various Maori representatives and *iwi* members, Bolton was able to gain a sense of the value of the repatriation initiative for both New Zealand and Maori people.[224] With regard to unprovenanced remains, Bolton discovered various concerns highlighted by the Maori people, with many *iwi* showing a reluctance to rebury remains which may not be their own ancestors, as is similarly the case in Australia.[225] Though a heavy responsibility, some *iwi* have accepted the burial of unknown bones on their land; however, others have expressed a strong reluctance, fearing the disruption of their ancestors' spirits by burying an enemy alongside them.[226] In meetings with *iwi* regarding the Repatriation Unit at Te Papa Museum, Bolton recounts an offer which a group from the extreme north of the North Island of New Zealand made, suggesting the construction of a burial vault for unprovenanced remains on their land,[227] most likely in reference to Te Rerenga Wairua in the Taitokerau.[228] This

[221] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme', MATAATUA HUI Ā ROHE REPORT: A summary report of the hui held at Te Rūnanga o Ngāti Awa, Whakatane, *Museum of New Zealand Te Papa Tongarewa*, on Tuesday, 7 June 2011, pp. 5–6.
[222] Ibid.
[223] Bolton, L., op. cit., 2007.
[224] Ibid.
[225] Ibid.
[226] Ibid., p. 110.
[227] Ibid.
[228] Ibid.

suggestion was viewed by some as a generous offer and a good solution.[229] Bolton recounts that some other *iwi* members saw this decision as a political gesture on the part of the individuals who made the offer, and questioned whether it had the support of the whole *iwi* involved[230] or whether there were perhaps other motives. Other *iwi* still remained concerned about the possibility that their own ancestors would be accidentally buried out of their territory.

Though it is evident that an appropriate solution regarding unprovenanced Maori ancestral remains needs to be found, the process towards a final solution requires both time and a systematic approach. Within the 2010 and 2012 reports, it was clearly noted that two key options were specifically distributed to the various *iwi* for deliberation: the construction of a *Putunga Kotahi* (or mausoleum) in Wellington that would hold the ancestral remains, or the *tono* (or invitation) from the Ngāti Kuri *iwi* for unprovenanced ancestral remains to be laid to rest at or near Te Rerenga Wairua in the Taitokerau.[231] While options from other *iwi* were encouraged, the 2012 report highlighted that out of the two options detailed above, the gathering at the *rohe* demonstrated greater support for the Ngāti Kuri invitation, with the added request that the burial grounds be continually open for unprovenanced ancestral remains.[232]

While it is encouraging that Te Papa Museum and various *iwi* have worked to funnel their deliberations for an appropriate solution to unprovenanced ancestral remains into two options, additional variables must still be taken into consideration. An indication has been given towards the retention of repatriated *Toi moko* within the Te Papa Museum collection for further research into the *moko*

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[229] Ibid.
[230] Ibid.
[231] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme Background Document', UNPROVENANCED KŌIWI TANGATA OPTIONS RE: FINAL RESTING PLACE, (2010, p.14); Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme', NGĀTI TŪWHARETOA REPORT: A summary report of the hui ā rohe held at Waitetoko marae, (2012, pp. 7–8).
[232] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme', NGĀTI TŪWHARETOA REPORT: A summary report of the hui ā rohe held at Waitetoko marae, Te Rangiita Taupōnui a Tia, *Museum of New Zealand Te Papa Tongarewa*, on Saturday, 13 October 2012, Agenda Item 6.1, p. 8.

patterns, which, in turn, may identify individual *tohunga tā moko* [tattoo experts] and possible provenance.[233] Unlike Australian deliberations, which hint towards the accessibility of unprovenanced ancestral remains for future scientific testing and subsequent provenancing, there is little evidence to suggest the future possibility or use of unprovenanced Maori ancestral remains for scientific testing. Though the option to place ancestral remains within a *Putunga Kotahi* (or mausoleum) permits possible future access for scientific testing, as previously mentioned, this option was not viewed favourably in the 2012 report.[234] As the possibility of scientific advancement looms over the debate surrounding the reburial of unprovenanced Indigenous remains, for New Zealanders and Maori, the overall long-term option is the establishment of a place not only where the Maori are able to visit and pay their respects to their ancestors, but also which provides ancestors with a specific place in which to rest in peace and with dignity.[235]

Conclusion

It is apparent that the repatriation of culturally unidentifiable human remains within the USA is limited by the cultural affiliation that the remains have to a federally recognised tribe.[236] As previously discussed, this limits a museum's ability to repatriate remains, even when an affiliation can be established but derives from a community which is not legally recognised by the NAGPRA. Though the NAGPRA and the 2010 Disposition for CUHR aim to ensure that remains are returned to their originating community or region, some remains simply cannot be provenanced or affiliated to any tribe, which results in their permanent holding within museums or agencies. By comparison, both New Zealand and Australia recognise that, in some cases, establishing a definite provenance of remains to an

[233] Ibid., p. 7.
[234] Ibid., p. 8.
[235] Museum of New Zealand Te Papa Tongarewa, 'Karanga Aotearoa Repatriation Programme', MATAATUA HUI Ā ROHE REPORT: A summary report of the hui held at Te Rūnanga o Ngāti Awa, Whakatane, *Museum of New Zealand Te Papa Tongarewa*, on Tuesday, 7 June 2011, pp. 5–6.
[236] Legal Information Institute, '43 CFR 10.11 – Disposition of culturally unidentifiable human remains', (2010); Birkhold, M. H., (2011); Colwell, C., (2017, pp. 234–250).

existing community may not be possible. However, through consultation with various Indigenous communities, it has been illustrated that the priority of their motives for repatriation is towards their ancestors' welfare, ensuring that their spirits are at peace.

Australia is following a similar path to that of New Zealand through the establishment of a National Resting Place, be it in the form of a cemetery or repository facility dedicated solely to ancestral remains with no known provenance. A contributing factor to this may be the close geographical locations of the two countries, or perhaps the notion that both countries are isolated, with Indigenous communities standing alone. The USA differs, as it incorporates various other Indigenous communities into the process, such as the Native Hawaiians, making it increasingly difficult to establish a solution which would be accepted and encouraged by all. In addition, the inclusion of New Zealand's Safe Keeping Place at Te Papa Museum, as an example in the ACIR's Discussion Paper and Survey, is a clear indicator that the Australian government has looked to New Zealand in its attempt to establish a solution to its unprovenanced remains.

It is evident that both the USA and New Zealand have recognised the needs of their Indigenous people and are attempting to aid in encouraging independence and self-identification through various political legislation and acts. It is with the additional construction of bicultural national institutions acting in support of various issues, such as the promotion of repatriation and restitution, that they hope to achieve this move forward. In comparing the repatriation progress of Indigenous ancestral remains, both provenanced and unprovenanced, from the USA and New Zealand, it is evident that they have approached the issue of unprovenanced ancestral remains in varying ways and with differing agendas.

While it is important to look to other countries so as to access their methods in respect of the similarly occurring issue of unprovenanced remains, it is also important to further examine future approaches which may have a more immediate and effective result in working not only to initiate a possible solution, but also to bring insight and understanding to European institutions as to why the

issue of unprovenanced ancestral remains is so concerning for Australian Indigenous communities and Australian museums.

Chapter Six:

Methods to consider in the approach to understanding the unprovenanced dilemma: Australia and the UK

Introduction

Drawing on the information gained from the increasing number of Australian Indigenous ancestral repatriations conducted by museums and cultural institutions within Australia and the UK, it has been observed that both countries are slowly taking the initiative in processing repatriation claims and acknowledging the new issues uncovered within the unprovenanced repatriation dilemma. That being said, the process of repatriating unprovenanced Australian Indigenous ancestral remains to Australia is still in its infancy, with continuous discussion needing to be examined and various possibilities that can be initiated considered within Australia and specifically the UK. Though the possible establishment of a National Resting Place within Australia would aim to appease the dilemma caused by unprovenanced remains, as reinforced in Chapter Four, the construction of such a designated place is unlikely to commence within the next few years; therefore, other considerations should be acknowledged regarding the repatriation process in both Australian and UK museums as a temporary alternative solution. Consequently, this chapter will examine other suggestions which can be applied within Australian and UK museums in order to expedite the repatriation of unprovenanced Australian Indigenous ancestral remains and build on mutual institutional and community cooperation through the construction of policies, digitally accessible collections,

and archival databases so as to illuminate the issue of repatriation and reinforce the cultural significance that repatriation provides for Australian Indigenous communities and the spirits of their ancestors' remains.

In addition, other restrictions within UK museum repatriation policies which limit the repatriation of unprovenanced remains, as previously discussed in Chapter Two, will be examined, discussing the need for alternative suggestions or amendments to be made accordingly. As reinforced by Hanchant, Pardoe, Pickering and Fforde, provenance is one of the more perplexing issues concerning unprovenanced remains, as it has restricted the ability to repatriate ancestral remains from both UK and Australian museums.[1] Therefore, to help with provenancing, it would seem advantageous for museums, within both the UK and Australia, to thoroughly examine their archival resources and documents in order to comprehensively map the journey that these unprovenanced remains made before their final placement within museum collections. Fundamentally, looking towards the participation of Australian Indigenous communities as a necessity in acquiring additional influential support and cultural insight for the establishment of provenance, and for the institution as a whole, is vital.

For Australian museums, constructing a rapport with Indigenous communities and creating an ongoing dialogue regarding both the construction of an exhibition and the establishment of a space dedicated to education and cultural expression are fundamentally necessary.[2] The encouragement and cooperation between museums and Australian Indigenous communities may prove beneficial overall through the implementation of an institution, such as a National Resting Place or a museum like the National Museum of the American Indian, which would be dedicated to, and governed solely by, Australian Indigenous representatives. While the initiation and proposal of a National Resting Place does serve to provide a solution to unprovenanced Australian Indigenous ancestral remains from national and international collections, in light of various limitations, such as location, funding, and building design, an alternative and perhaps more immediate

[1] Hanchant, D., (2002); Pardoe, C., (2013); Pickering, M., (2015); Fforde, C., (2016).
[2] Lindy Allen, Interview, Melbourne Museum, Melbourne, 10 December 2014; Hutchison, M., (2013).

means by which to support, preserve and implement the repatriation of these remains must be acknowledged and considered carefully.

Building on relations between museums and the Australian Indigenous people

Australian museums have been very proactive with the inclusion and representation of Australian Aboriginal and Torres Strait Islander peoples within their exhibition spaces and institutional policies.[3] Some institutions, such as Melbourne Museum, host interactive sessions wherein traditional Aboriginal crafts, such as basket weaving, are taught to the general public by local Indigenous community members from Victoria.[4] In addition, Melbourne Museum provides a space dedicated solely to Australian Indigenous expression, in which Indigenous communities or organisations can perform traditional dances and songs for the public. Furthermore, Melbourne Museum incorporates a botanical garden of native Australian plants, wherein visitors are able to learn about the plants amongst which Australian Indigenous people lived and how they were used in their medicine and everyday life.[5] Although not all Australian museums display the same level of involvement and participation from local Australian Aboriginal communities, each state museum, including the National Museum of Australia, encompasses a space dedicated solely to the representation of the Australian Indigenous people and their culture. It is through these interactive demonstrations that visitors, Australian Indigenous and non-Indigenous alike, are able to learn about and interact with a culture which was perhaps previously unknown to them, wherein cultural discourse can be initiated and the history and identity of all Australians examined.

[3] Schultz, L., 'Maintaining Aboriginal engagement in Australian museums: two models of inclusion', *Museum Management and Curatorship,* Vol. 29, No. 5, 2014, pp. 412–428.
[4] Patten, J., 'Weaving Workshop', *Museum Victoria*, 5 April 2016, <https://museumvictoria.com.au/about/mv-blog/apr-2016/weaving-workshop/> [accessed 10/07/16].
[5] Ibid.

Working towards the reengagement of historical collections and concerns between museums, the public, and source communities,[6] some Australian museums have sought to provide Indigenous communities with the ability to gain access to objects within their entire Australian Indigenous collections, engaging and aiding in relearning historical techniques of craft, initiation rituals and mortuary rites through the use of objects, photographs and archival records. This interaction with Indigenous cultural materials is viewed by Peers and Brown as a 'cultural right', with museums serving as stewards in the preservation of significant cultural materials.[7] With the incorporation of an 'Open Collection',[8] the possibility of reinforcing one's cultural identity and heritage through the objects not only is observed, but also may provide the possibility for visiting Australian Indigenous community members to aid museum staff in educating staff on contemporary used of similar objects displayed or provenancing ancestral remains or cultural material within their custody through the display of relevant archival documentation. Although this would be challenging to implement with access to sensitive information requiring ethical consideration and application base of the institutions standards, it could prove promising. However, in the era of technology, would an online archival database prove more efficient and effective in reaching a wider audience and acquiring the desired feedback, whilst aiding in the establishment of a possible provenance? Perhaps the implementation of specific community surveys or the use of the 'Open Collection' framework could prove more beneficial, which will be discussed in the following section. Ross et al. noted the increasing presence, construction and popularity of online museum collections. Though providing a virtual space in which global audiences can access and engage with the vast number of objects housed within an institution's collection, including those both on and not on display, Ross et al. remarked on the need for designing a database and system which are easily understood and meet

[6] Davis, P., (2007); Halpin, M. M., (2007); Hooper-Greenhill, E., (2007); Brady, J. M., (2011); Hutchison, M., (2013).

[7] Peers, L., Brown, A. K., op. cit., p. 2.

[8] 'Open Collection'* is an initiative constructed at the NMA which provides visitors with a special 'behind the scenes' glimpse into more than two thousand objects from the National Museum of Australia's Indigenous collections, objects which would normally remain in storage.

the needs of those accessing the material through such platforms.[9] Referencing Marty (2004), Ross et al. highlight that meeting the information needs of online visitors has become an important part of museums' role within society.[10]

The implementation of an 'Open Collection', a collective human remains archive or an online database may prove highly instrumental in the development of cultural understanding in respect of Australian Indigenous ancestral remains within museum collections and the importance of repatriation. That being said, consideration should be given to ethical implications of producing a digital database which includes culturally sensitive material, and the emotional distress and cultural conflict that may arise as a result of the public accessibility of emotive or controversial content, which may deter Indigenous Australians from participating in and viewing such resources. There still appears, however, to be certain issues surrounding the accessibility of such a collection, with the need for ethical consideration to be made in order to ascertain if permission must be acquired from Australian Indigenous communities in order to allow for spiritual and sacred community-specific cultural items to be included within a publicly accessible archive, including the addition of archival records or photographs pertaining to ancestral remains or deceased persons. Janke draws on Australian Indigenous concern surrounding the public accessibility and commercial use of information to be included within potential databases for Indigenous cultural material held by governmental departments, universities, museums and archives.[11] While in 1997 the Australian Federal Government assured concerned Indigenous communities that an investigation into the establishment of a database would be made so as to provide Indigenous people with access to information on cultural material held within institutions, issues relating to who would hold the authority to control or own such a database, at the time had not been addressed.[12]

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[9] Ross, et al., 'Measuring impact and use: scholarly information-seeking behaviour', in *Evaluating and Measuring the Value, Use and Impact of Digital Collections*, Hughes, L. M., (ed.), Facet Publishing: London, 2012, p .85.
[10] Ibid.
[11] Janke, T., *Our Culture: Our Future: Report on Australian Indigenous Cultural and Intellectual Property* Rights, Australian Institute of Aboriginal and Torres Strait Islander Studies and the Aboriginal and Torres Strait Islander Commission, 1998, p. 37.
[12] Ibid.

Even though Indigenous communities have a right to express their concerns in the digitisation and global accessibility of cultural material and sensitive Knowledge, Lindy Allen stressed the risk of broader issues of cultural misrepresentation or homogenisation which Indigenous communities may face if they do not make themselves visible to the wider public.[13] Such concerns may be appeased if the authority or ownership of a centralised digital repository or database was provided to an Australian Indigenous agency, however with museums acting as current stewards of Indigenous cultural material participatory input from Indigenous communities and ethical protocols which embrace cultural concerns serve as a more effective approach in order to ensure institutions act according to Indigenous concerns.[14]

As has been continuously reiterated throughout this thesis, community permission cannot always be easily achieved with regard to unprovenanced ancestral remains. Therefore, by omitting spiritual or distressing content, such as photographs or casts of ancestral remains or deceased persons, from public display or online collections, or providing content warnings for sensitive subject matter, steps would be taken to ensure Australian Indigenous access and participation with the displayed content.[15] This will be further examined within this chapter.

The establishment of a national institution which is led and run by Australian Indigenous personnel or governed by an Indigenous association, similar to the National Museum of the American Indian, in association with the proposed NRP may prove more beneficial to the Australian Indigenous people than a standalone repository. As an institution dedicated solely to the Australian Aboriginal and Torres Strait Islander peoples, it would hold greater relevance to the landscape, not only acting as a place for commemoration and celebration, but also functioning as a space for education and cultural insight. Such a space, which is governed by Indigenous Australians, would, in theory, permit freedom in the construction and

[13] de Souza, P., et. al., 'Aboriginal Knowledge, Digital Technologies and Cultural Collections Policy, Protocols, Practice', Melbourne Networked Society Institute Research Paper, 4 October 2016, p. 44.
[14] (Gilliland, A. J., McKemmish, S., 2014, p. 82); (de Souza, P., et. al., 2016, p. 44.)
[15] Ibid., p. 33.

narration of exhibitions, allowing for their historiography to be displayed and the cultural diversity between various Aboriginal communities throughout Australia to be examined and exhibited for the wider general public. Similar to Te Papa Museum, the construction of a national Australian Indigenous museum, though conforming to the presumed rooted ideology of museums as a Western phenomenon,[16] and institutional adoption of indigenised practices and other ways of working and interacting with source communities, as highlighted by Onciul, would increasingly move the institution away from traditional museological practices by decolonising institutional practices, and would serve to change the 'ethos' and culture of museums.[17]

Today, Australian Indigenous community centres play an influential role in the reaffirmation of community identity, providing a specific place wherein Aboriginal generations are able to interact and exchange traditional knowledge and customs, while providing non-Indigenous visitors with a more in-depth narrative of their community's history, beliefs and practices. Unfortunately, at present, some Aboriginal community centres and regional museums throughout Australia struggle to remain open due to diminishing resources, a lack of tourism, decreased community maintenance, and a lack of public interest and involvement from younger Aboriginal generations. Therefore, the introduction of a national museum for the Indigenous people of Australia would ensure that all communities are represented in some form, and their stories heard. Kreps stressed the importance of incorporating Indigenous ways of working into the process of engagement in order to encourage the survival of cultural heritage itself, thus ensuring that no marginalisation, or 'top-down' museological and academic approach, is exhibited.[18]

[16] Kreps, C., 'Indigenous Curation as Intangible Heritage: Thoughts on the Relevance of the 2003 UNESCO Convention', *Theorizing Cultural Heritage,* Vol. 1, No. 2, 2005, p. 1.
[17] Onciul, B., *Museums, Heritage and Indigenous Voice: Decolonizing Engagement*, Routledge: New York & London, 2015, p. 118.
[18] Kreps, C., 'Indigenous Curation as Intangible Heritage: Thoughts on the Relevance of the 2003 UNESCO Convention', *Theorizing Cultural Heritage,* Vol. 1, No. 2, 2005, p. 4.

With variations in Australian Indigenous community beliefs, opinions and practices throughout Australia, consideration must be given to the display of all individual communities and any secret/sacred materials, as the exchange and interchange of cultural material and knowledge between community groups may prove beneficial, but may also prove controversial, stirring heated debate or possible opposition in respect of cultural beliefs held between communities. Furthermore, individual community secret/sacred materials which cannot be seen by other Australian Indigenous communities or various members of the community would need to be considered or withdrawn. This is already the case in many Australian Indigenous exhibitions within Australian museums which are constructed in collaboration and consultation with community representatives in order to ensure that culturally contentious objects are not included and that ethical codes of practice are administered.

Through the establishment of such an institution, Australian Indigenous communities would be reassured that their traditional cultural objects, as well as their stories, songs and practices, would be preserved for safekeeping in a specialist facility controlled by their own representatives for the benefit of future generations of Indigenous and non-Indigenous Australians. While such an institution would benefit the number of diminishing community centres throughout Australia, other community centres which are presently thriving, such as the Koorie Heritage Trust Cultural Centre, could, however, be threatened or unintentionally rendered void. Instead, these thriving community centres should work together to expand and impart their knowledge and narratives with such a facility, widely allowing the exchange of various objects from their collections for display through loans.

Though a standalone repository would ultimately restrict the ability for visitors to gain access to the ancestral remains, it would, however, function primarily as a symbolic place for commemoration. That being said, the association of such a memorial place attached to a cultural institution, specifically for the Australian Indigenous people, could serve to place greater emphasis on the story of repatriation and the importance of reburying ancestral remains. As previously

mentioned in Chapter Four, the Australian Indigenous governance of such a museum or cultural institution, in cooperation with the Australian government, would function as a symbol of partnership and shared authority between Indigenous and non-Indigenous Australians.[19] This, in theory, would ultimately enable the Australian Indigenous people to construct their own exhibition spaces and narratives as well as work simultaneously in the preservation, provenancing and maintenance of secret/sacred cultural material and ancestral remains.

Though it is undeniable that such an institution, if governed in association with the Australian government, would have imposed upon it various restrictions, similar to the National Museum of the American Indian and Te Papa Museum in New Zealand, as highlighted in Chapter Five, greater public and non-Indigenous appreciation would serve to reinstate Australian Indigenous authority and voices through such a facility. That being said, by contrast, the construction of such a place, designed specifically for the Indigenous population, though ultimately beneficial, may, due to underlining racial tensions that have stemmed from the effects of colonialism, serve to segregate and further ostracise Indigenous Australians from the non-Indigenous population. This could ultimately counteract previous attempts of reconciliation, by evoking feelings of guilt and shame, concepts from which museums have readily steered away in their displays of colonial history and Indigenous groups in an attempt to remain 'neutral'.

The display of 'neutrality' within some museums is a concept increasingly refuted,[20] often with institutional governmental bodies, curatorial opinion, and community input imposing their own interpretation and voice on the displayed objects, explored themes, and overall construction of an exhibition. Macdonald and Basu remark that the claim of 'neutrality' can no longer be successfully justified within museums, as interpretations and representations are 'socially,

[19] Peers, L., Brown, A. K., (2003); Hooper-Greenhill, E., (2007); Brady, J. M., (2011); Hutchison, M., (2013).
[20] Karp, I., Lavine, S. D., (1991, p. 84); Kavanagh, G., (1994, pp. 1–12); Linenthal, E. T., (1996, p. 26); Basu, P., Macdonald, S., (2007); Minore, M., (2011, p. 144).

politically, ideologically, institutionally, and technologically mediated'.[21] Even though the construction of an Australian Indigenous institution would spark potential ethical concerns and subsequent repercussions from Indigenous and non-Indigenous visitors alike, working with an agreed governing framework, to be represented within a public space with their own honest and in-depth narrative of individual and collective cultural history and heritage, would ensure the continuous representation and inclusion of the Australian Indigenous people and their voice, as a collective, within the country's own public and exhibited history.

The decision as to the construction of such an extensive national institution, dedicated specifically to Indigenous Australians and their culture and functioning as both a safe repository for ancestral remains and a place for cultural and educational exchange, is still being considered by the ACIR, even if this would provide a plausible option in the debate surrounding the proposed NRP. It seems, however, that achieving such an institution would require extensive resources, an expense that the Australian government and taxpayers are perhaps unwilling to provide. Even with the desire to unite the country as a whole and instil a united sense of pride and empowerment within the Australian Indigenous people, at this early stage in the deliberations, governmental scrutiny in the application for financial backing of such an institution can only be speculated.

'Open collections', databases and 're-provenancing' projects within Australia

As highlighted in Chapter Three, provenancing is an integral aspect of the repatriation process, and in most instances acts as a defining requirement for many Australian Indigenous communities and museum policy decisions.[22] As discussed in Chapter Three, a Skeletal Provenancing Project was previously instigated in Australia in association with the South Australian Museums in the

[21] Basu, P., Macdonald, S., 'Introduction: Experiments in Exhibition, Ethnography, Art, and Science', in *Exhibition Experiments*, Macdonald, S., Basu, P., (eds.), Blackwell Publishing: Oxford, 2007, p. 11.
[22] Hanchant, D., (2002); Hubert, J., Fforde, C., (2002, p. 8); Colwell, C., (2017).

hope of ensuring the correct provenance of repatriated ancestral remains from national and state institutions. Although the National Skeletal Project was short-lived, the number of Australian Indigenous ancestral remains which were correctly provenanced, and specifically those which were re-provenanced or unprovenanced, clearly demonstrates the various 'short comings' that can occur when solely relying on archival records associated with repatriated or claimed ancestral remains.[23] Though the project did not impact on Australian institutional repatriation policies, it functioned as a comprehensive document, assessing the number of repatriated provenanced and unprovenanced Australian Indigenous remains within collections throughout the country from the mid-1990s to late 1990s. Cubillo questions the outcome of the provenancing project, which was brought to an end in 2005, and the ways in which the information gathered could help to shape state and national museums within Australia.[24] What is of particular interest to Cubillo is that both Australian Indigenous communities and specialists (most of whom were non-Indigenous Australians) who took part in the repatriation of remains were not consulted by the RICP as to the effectiveness and benefit of such a programme.[25] In speaking with both Lindy Allen and Michael Pickering in December 2014, it was suggested that both Melbourne Museum and the NMA acted upon their own initiative to complete the ACIR's 2013 survey regarding the possible form and function of the proposed NRP, rather than waiting for the ACIR to ask for their feedback.[26]

For a seemingly successful provenancing project which meticulously determines the detailed histories of ancestral remains, it may be viewed as unusual to cease its continuation when the issue of unprovenanced remains still exists. That being said, resources and financial backing may have been the ultimate cause of its demise, with the construction of an NRP, at the suggestion of the RICP, being viewed as a more visually proactive and perhaps finite solution to Australian

[23] Hanchant, D., (2002); Dianne Hanchant-Nichols, Interview, Adelaide, 22 December 2014.
[24] Cubillo, F., 'Repatriating Our Ancestors: Who Will Speak for the Dead?', in Turnbull, P., Pickering, M., (2010), op. cit., p. 22.
[25] Ibid.
[26] Lindy Allen, Interview, Melbourne Museum, Melbourne, 10 December 2014; Dr. Michael Pickering, Interview, National Museum of Australia, Canberra, 7 December 2014.

Indigenous ancestral remains and cultural activities. Although the NRP still requires extensive financial resources and backing, focus on determining provenance would be more beneficial to the spirits of the remains, rather than leaving them to 'rest' within the confines of another repository. The establishment of provenancing projects, or the designation of official provenancing teams within museums throughout Australia, may provide additional jobs for Indigenous Australians, as well as non-Indigenous specialists, working cooperatively with one another and with external institutions. Some state museums, such as Melbourne Museum, the National Museum of Australia, the South Australian Museum, and Queensland Museum, already have teams dedicated solely to repatriation and the provenancing of claimed ancestral remains. Their work includes the return of ancestral remains to their communities of origin and the establishment of a comprehensive archival list detailing those provenanced and unprovenanced human remains within their collections, allowing also for the interaction and input of museums in the recognition and repatriation of ancestral remains which often originate from communities between located state borders.[27]

Fortuitously, Queensland Museum has constructed its own initiative in the repatriation cause, introducing a repatriation fund on its website which encourages visitors to make a monetary donation, specifically towards supporting the museum's work with Australian Indigenous communities so as to help repatriate ancestral remains, as well as burial goods, and secret/sacred objects to their community of origin.[28] Most importantly, this initiative also assists Australian Aboriginal and Torres Strait Islander communities in providing finance for administrative resources in order to coordinate community gatherings and ceremonial requirements necessary to complete the repatriation process and burial process. These donations ultimately supplement the existing Australian government funding provided to Queensland Museum.[29]

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[27] Museums Australia, 'Continuous Cultures, Ongoing Responsibilities: Principles and guidelines for Australian museums working with Aboriginal and Torres Strait Islander cultural heritage', *Museums Australia*, Canberra, February 2005.
[28] 'The Queensland Museum Repatriation Fund', *Queensland Museum Network*, <http://www.qm.qld.gov.au/repatriationfund#.WTwoT2jyu00> [accessed 15/05/17].
[29] Ibid.

In order to allow Indigenous Australians to gain insight into traditional cultural materials and practices, the National Museum of Australia initiated the 'Open Collections', which permits access to over two thousand Australian Aboriginal and Torres Strait Islander objects stored within the museum's collections to be viewed by the public.[30] Incorporated within the displayed collections are many traditional objects, as well as photographs depicting various culturally significant and meaningful scenes, all serving to facilitate the visitor with an understanding of the function and purpose of various objects found within Indigenous communities throughout Australia as well as the manner in which they were traditionally used.[31] Thomas reinforces the purpose and function of museum collections, suggesting that they serve to 'represent the histories of their own formation', acting as 'instruments for the interpretation' of the wider histories of art, science and travel, therefore functioning to represent and embody aspects of existence rarely recorded in archival documents.[32] Permitting Australian Indigenous communities to physically get close to their cultural objects allows for the fluidity of the Australian Indigenous culture to be experienced by Indigenous visitors.

Even so, 'Open Collections' is limited in its access and reach, as it can only be physically experienced by travelling to the National Museum of Australia in Canberra; unfortunately, some Australian Indigenous visitors are not always able to take such a long journey. The museum's online collection, in addition to the 'Open Collections', therefore permits a wider range of people to gain visual access to the collection and knowledge of Australian Indigenous culture. However, the physicality of the objects exhibited online is impeded by the restrictions of the Internet, requiring scale measurements, photography, written descriptions and filmed footage so as to allow audiences to gauge the size of the objects and, if possible, their purpose and function. Even though there are varying limitations with online databases and collections, they do, however, ensure that fragile

[30] 'First Australians: Open Collections', *National Museum of Australia*, <http://www.nma.gov.au/exhibitions/first_australians/open_collections> [accessed 11/05/16].
[31] Ibid.
[32] Thomas, N., *The Return of Curiosity: What museums are good for in the 21st century*, Reaktion Books: London, 2016, pp. 122–123.

documentation and objects which were previously unable to be displayed or loaned out to other institutions due to the possibility of further damage can be accessed and viewed by the general public.[33]

When visiting the National Museum of Australia's online collection, it is apparent that there are no human remains incorporated into its online database. In addition, it would appear that neither Museums Victoria, the South Australian Museum, Queensland Museum nor the Perth Museum and Art Gallery has Australian Indigenous human remains incorporated into its publicly accessed online collections. In accessing their online databases, it appears that many of these museums are still in the process of constructing their online collections, with the lack of Australian Indigenous human remains possibly being due to the delay caused by the desire to ensure that the cultural objects within their collections are correctly catalogued and are treated with the utmost dignity and respect. However, the lack of ancestral remains present within publicly accessed online collections or archives is more likely due to the cultural sensitivity of the content, and the institutions' desire to maintain respect for the ancestral remains, Australian Indigenous communities and their cultural beliefs.

The placement of photographs depicting Australian Indigenous human remains, both dead and alive when they were taken, goes against many Australian Indigenous cultural beliefs regarding the dead, as it is believed that the image mimics the spiritual displacement which the physical human remains hold when placed within a public display.[34] This is one of the possible reasons for omitting photographs of human remains within online databases, as previously mentioned. Furthermore, many Australian museums will not display images or casts of deceased Australian Indigenous persons, in keeping with traditional customs and in order to ensure that any Australian Indigenous visitor who may visit the museum is not shocked or distressed by the content displayed.

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[33] Hudson, C., 'The Digital Museum', in Hughes, L. M., (ed.), *Evaluating and Measuring the Value, Use and Impact of Digital Collections*, Facet Publishing: London, 2012, p. 42.

[34] Korff, J., 'Mainstream media coverage of Aboriginal issues', *Creative Spirits*, April 2016, <http://www.creativespirits.info/aboriginalculture/politics/media-coverage-of-aboriginal-issues#axzz48xBQvTKT> [accessed 10/05/16].

This ultimately requires museums to change their attitudes towards the display of the dead within their exhibitions and review the ethical decisions that must be considered to ensure that every visitor is welcome at the museums. Nonetheless, sensitive material can be admissible if permission is granted by the deceased's family or community and the museum deems the content to be appropriate. Nevertheless, it should be respected that the depiction of deceased persons, or the inclusion of their names, goes against the cultural wishes of many Australian Indigenous communities[35] and disrespects the spiritual and cultural beliefs of the Australian Indigenous people and their ancestors. Even so, photographs of deceased Australian Indigenous persons are still included within some exhibition displays and online collections today — one only hopes that permission from the deceased person's family or his or her community had been acquired, with a warning of their inclusion given at the commencement of the exhibition or display for Australian Indigenous visitors. Warnings such as the following can be found on many Australian museum and Australian Aboriginal and Torres Strait Islander community websites:

> **WARNING:** Visitors should be aware that this website includes images and names of deceased people that may cause sadness or distress to Aboriginal and Torres Strait Islander peoples.[36]

With regard to processing unprovenanced remains, it is the additional information and documentation detailing when, where and how the remains were acquired, and by whom, that are of main consideration in such a database. The use of scanned and photographed documents detailing or illustrating where the ancestral remains were initially found and how they were recovered, such as from within a ceremonial bundle, hollow tree, burial casket, or enveloped within burial wrapping, is immensely valuable when determining a possible location of origin for unprovenanced remains (see Chapter Three). This is vital information that

[35] Ibid.

[36] 'First Australians: Aboriginal and Torres Strait Islander Programmes', *National Museum of Australia*, <http://www.nma.gov.au/history/aboriginal-torres-strait-islander-cultures-histories> [accessed 10/05/16].

should be openly accessible to provenancing teams around the globe in an appropriate and culturally sensitive manner.

The accessibility of public inventories from all museums throughout Australia would allow authorities and communities to gauge the definitive number of remains which hold provenance, and can therefore be repatriated, while also indicating those remains requiring additional investigation. Yet, not all archival records and databases are kept up to date, with some inventories lacking exact information. Thus, the credibility of such recorded information is called into question, especially information regarding remains derived from collections acquired through questionable means,[37] as examined in Chapter One. This is perhaps one of the reasons as to why the Skeletal Provenancing Project re-provenanced and unprovenanced many incorrectly recorded Indigenous ancestral remains, proving a valid reason for the value of the project to be reappraised.

Moreover, the implementation of a specialist team which focuses on the provenancing and re-provenancing of human remains in each major state museum, in addition to consultations with Australian Indigenous community groups regarding reburial or any community conflicts which may occur, may prove beneficial to the communities, especially in anticipation of further possible remains to be analysed. In the event that some Australian museums or Indigenous communities are unable to decide the fate or means of burial for ancestral remains,[38] support and consultation between other state museums and Australian Indigenous provenancing teams would be advantageous when advising on various procedures that other communities have undertaken in the return of ancestral remains, as well as methods of reburial.[39] This process of community consultation and support has already been implemented within Melbourne Museum, with its repatriation team ensuring that as many ancestral remains as possible are returned to their original community and that the receiving communities are fully

[37] Turnbull, P., (2010a, p. 2); Colwell, C., (2017).
[38] Lindy Allen, Interview, Melbourne Museum, Melbourne, 10 December 2014.
[39] Ibid.

informed of and prepared for the return of their ancestral remains. As mentioned in Chapter Four, consultation discussions and support from museums when approaching Indigenous communities have been remarked by Thomas (Appendix 6), Pickering (Appendix 10) and Allen (Appendix 11) as being better received by Australian Indigenous museum representatives, rather than non-Indigenous Australians, due to their cultural and spiritual connection, understanding and awareness. This is also evident in the selection of the ACIR members, as previously highlighted in Chapter Four. Therefore, the implementation of a project to support communities would benefit from the inclusion of Australian Indigenous representatives, providing necessary jobs to ensure that communities feel fully supported and secure in knowing that the museum is prioritising the needs of their communities and ancestral remains.

A provenancing project, in addition to a comprehensive public archive, would allow museums and Indigenous communities throughout Australia to be able to perhaps uncover additional information for the provenancing of ancestral remains classified as unknown and languishing on museum shelves. In doing so, this would provide knowledge and greater cultural understanding, while also supporting communities in the process of bringing their ancestors to 'Country' and to rest.

Implementing possible changes to museum repatriation policies in the UK

Museum repatriation policies within the UK have come a long way since the late 1990s, with many institutions recognising the cultural importance and benefits gained through repatriation for the living Indigenous communities and their ancestors' spirits, which are encompassed within the remains themselves.[40] While the construction and implementation of various human remains policies and

[40] Besterman, T., (2003; 2004); Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', (2005); Human Remains and Museum Practice: Museums and Diversity, (2006); Turnbull, P., Pickering, M., (2010); Pickering, M., Gordon, P., (2011); Fletcher, A., Antoine, D., Hill, J. D., (2014); Fforde, C., Ormond-Parker, L., Turnbull, P., (2015).

guidelines, such as the *DCMS Guide,*[41] the *Human Tissue Act 2004*[42] and the *ICOM Code of Ethics for Museums,*[43] have helped museums throughout the UK to shape repatriation policies and ethical frameworks in the care and maintenance of human remains within their collections, there are, however, differing variations within institutional repatriation policies which reflect the museum's inclination to accede to repatriation claims and its position on the repatriation debate. As previously mentioned, some museums, such as Manchester Museum and Birmingham Museum and Art Gallery, have taken their own initiative in the return of Australian Indigenous ancestral remains within their collections, approaching affiliated communities or provenancing organisations with the prospect of repatriation.[44] Even though ancestral remains and repatriation policies have contributed to the return of hundreds of Australian Indigenous ancestral remains from UK institutions, unprovenanced ancestral remains are still present within UK museum collections, remaining unprocessed due to the inability of communities to claim these remains.

Although it is most likely that there are several museums within the UK which would happily repatriate unprovenanced Australian Indigenous ancestral remains from their collections, various repatriation restrictions incorporated within individual museum policies restrict the ability to repatriate these remains without an official claim being made or definitive proof of cultural affiliation. This ultimately forces UK museums to maintain custody of the unprovenanced Australian Indigenous ancestral remains within their collections until a possible alternative solution is verified. The inability of unprovenanced remains to be claimed by an Indigenous community or representative authority can be viewed as a deliberate attempt or convenient excuse used by the UK institutions to maintain their authority over and the integrity of their collections; however, as previously examined, this is not always the case.

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[41] Department of Culture, Media and Sport, 'Working Group on Human Remains: Human Remains Report – Chapter 13', DCMS, 2003, pp. 177–184.
[42] UK Parliament, 'Part 3: Section 47 – Power to de-accession human remains', (Human Tissue Act 2004).
[43] International Council of Museums, 'Code of Ethics for Museums', *ICOM*, Paris, 2013.
[44] Besterman, T., (2004; 2016); Chambers, F., (2013); 'Australian Aboriginal remains begin long journey to ancestral home', (14 October 2016).

Within the last ten years, acknowledgment of the issues relating to unprovenanced Australian Indigenous ancestral remains has been brought to the fore of the repatriation debate; even so, many policies within the UK still neglect to provide suitable and detailed regulations or guidelines detailing appropriate methods for repatriating unprovenanced ancestral remains back to Australia or for the initiation of provenancing projects to overcome the dilemma that these remains present. It is highlighted in the DCMS guide that before a claim is approved, archival records and documentation detailing the contended remains are to be analysed so as to ensure that there is no reasonable doubt in respect of linking the origins of the remains to the community.[45] However, provenancing research is not always thoroughly carried out within UK museums, with the labelling of remains as unprovenanced being convenient and cost-effective, as no additional testing or resources need to be examined. The DCMS guide emphasises that in the case of repatriating unprovenanced ancestral remains, archival records and documentation are not always consulted, as no claim has been made by an Indigenous community or representative.[46] This suggestion by the DCMS can be perceived to be counterproductive, as it does not allow the possibility for Indigenous community members or a representative to approach an institution and review UK collections and documentation without a viable claim.

Pickering noted that during the 2011 repatriation process of 'unprovenanced Torres Strait Islander' ancestral remains from the UK to Australia, a minimal amount of supporting documentation regarding the ancestral remains was sent with the remains to the NMA. This information, though sparse, did include key facts, naming the collector, who was identified as naturalist J. Beete Jukes, and is known to have voyaged on the *HMS Fly* (1842–1846).[47] In ascertaining this information, not only was the repatriation team at the NMA able to pinpoint which

[45] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', op. cit., pp. 23–30.
[46] Ibid., p. 26.
[47] Pickering, M., 'Rewards and Frustrations: Repatriation of Aboriginal and Torres Strait Islander Ancestral Remains by the National Museum of Australia', in *The International Handbooks of Museum Studies: Museum Practice*, McCarthy, C., (ed.), John Wiley & Sons, Ltd.: USA & UK, 2015, p. 469.

islands in the Torres Strait the *HMS Fly* had visited, but through Beete Jukes' published observations of a number of burial sites, specific reference was also made to the circumstances of acquisition of remains from only the Mer and Waier Islands in the eastern Torres Strait.[48] This, according to Pickering, provided significant evidence for the likely provenance of these remains to a select group of islands and a single Torres Strait Islander cultural group.[49]

By contrast, in 2000 the Anatomy Department of Edinburgh University conducted extensive provenancing research into the number of Australian Aboriginal remains due to be repatriated. Examining their archival documentation, their findings resulted in the amassment of significant provenance information on the remains to be returned. Pickering highlighted that this information ranged from identifying named individuals and disparate anatomical parts so as to permit their reunification, to maps and documents detailing the exact location wherein the remains had been excavated.[50] The extensive provenancing information acquired by Edinburgh University is noted by Pickering to have greatly facilitated a speedy and mainly 'issue-free' repatriation of the remains to their respective communities and, on occasion, descendant families.[51] It would, therefore, seem pertinent for the DCMS to readdress its 2005 guide and demand more appropriate and relevant solutions to the repatriation of unprovenanced Indigenous human remains from within UK museum collections.

Section 3.3.2.A of the DCMS guide reinforces the required assurance of cultural affiliation of claimants to ancestral remains, reinforcing the museum's position in assessing that the claimant's authority over the remains is established and a 'sufficient link' is proven.[52] While the DCMS is demonstrating its efforts in ensuring that Australian Indigenous ancestral remains are returned to their originating community, for some remains this cannot be achieved. An affiliation through the

[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Ibid.
[52] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', op. cit., p. 26.

connection of 'kinship', or simply through Australian Indigenous descent, should ultimately be the only requirement that UK museums seek in the repatriation of unprovenanced remains, allowing the NMA to conduct further provenancing once remains have been returned to Australian soil. Piotr Bienkowski, the current Project Director of *Our Museums: Communities and Museums as Active Partners* at the Paul Hamlyn Foundation, reiterated this notion, stating in his response to a questionnaire (Appendix 8) that for remains which have little known provenance, most museums within the UK would be able to link the remains to Australia, which should provide sufficient information for the repatriation of those remains.[53] Bienkowski addressed the validity of museums' bureaucratic processes employed when designating a community's right of ownership over claimed cultural material, believing that museums should 'set aside' these regulations in favour of an 'open and transparent deliberative democratic process' which is based on fairness and dialogue between all of those involved.[54] This, in turn, is reinforced by Bienkowski to offer museums a practical framework incorporating different voices, values, and forms of knowledge within their displays and institution as a whole.[55]

For museums within the UK, unprovenanced Australian Indigenous remains will reside within their collections unless additional archival research is conducted or, alternatively, institutions act of their own accord in repatriating these remains to the National Museum of Australia. Ultimately, at this point, due to the lack of cultural affiliation of unprovenanced remains and the inability for community permission to be given, there is very little additional scientific information that may be achieved using current non-invasive techniques. Therefore, it would seem more appropriate and beneficial for these predetermined Indigenous remains to be returned to their 'Homeland' for investigation. In an interview (Appendix 13), Tiffany Jenkins commented on the possible lack of specific scientific evidence and educational benefits that unprovenanced ancestral remains could provide in the

[53] PhD Questionnaire – Piotr Bienkowski response, 10/05/16, (see Appendix 8).
[54] Bienkowski, P., (2014, pp. 48–49); Onciul, B., (2015).
[55] Ibid, p. 49.

short term, stating that, realistically, they would most likely 'just sit in a box'.[56] Though cautioning not to 'over-claim for the science', Jenkins, however, acknowledges the possibility of using unprovenanced remains for future research.[57] Section 2.9 of the DCMS guide reinforces the continued retention of human remains within a museum's collection if scientific justification for future research is provided:

> Any museum holding human remains for research reasons should construct and make public a clear research framework for their use, or show how remains relate to an existing research framework. It would be normal to review these frameworks regularly and ensure they stay relevant. Research potential will relate to both in house research by staff and students, and research carried out by the scientific community more widely (such as visiting researchers).[58]

From examining various repatriation and human remains policies within UK institutions, it is evident that there are variations and differences, with many individual institutions working to construct policies which support and initiate their own stance regarding the care, conservation and repatriation of unprovenanced Australian Indigenous remains from their collections. However, such guidelines, as stated above, reinforce the scientific importance of Indigenous human remains, prioritising the possibility of future research over cultural beliefs and wishes.

A determined policy detailing extensive processes in the return and care of unprovenanced Indigenous remains within UK institutions would allow for both UK and Australian museums, in conjunction with Indigenous organisations, to work simultaneously in returning ancestral remains to their 'Homeland'.[59] However, as Jenkins notes within an interview (Appendix 13), it is very unlikely that UK museums would change their policies in favour of returning Australian Indigenous ancestral remains or any Indigenous human remains from within their

[56] Dr. Tiffany Jenkins, Interview, Via Skype, 27 April 2016.
[57] Ibid.
[58] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', op. cit., p. 21.
[59] PhD Questionnaire – Piotr Bienkowski response, 10/05/16.

collections, due to their strong differences in opinion regarding the issue,[60] and perhaps being in fear of repercussions with future repatriation conducted without a tangible claim, prompting the return of cultural material encompassing fractions of human tissue and, subsequently, the restitution of all cultural material within the museum's collection.[61] There is a real need to re-examine repatriation policies and UK governmental guidelines, so as to re-evaluate the benefit which unprovenanced remains hold within UK institutions, and examine the ways in which these remains can be claimed without an originating community coming forth.

Public archival records and human remains databases within UK museums

It is evident that archival records play a prominent role in the process of repatriation; however, they are integral to the overall function and process of museums, detailing and documenting a vast range of information regarding objects within their collections, past exhibitions, publications, educational and academic interest, etc.[62] Many archives are kept within the storage facilities of museums, acting as building blocks in the construction of exhibitions and future research. Recent initiatives of publicly accessible digital archives and collections have reenergised how institutions and the public use archives and museum resources, with the accessibility of information previously confined to institution storage now readily available on a global scale.[63] In a modern society which is heavily dependent on technology and popularised through social media, it would seem appropriate for museums to digitise their collections and archives in order to remain up to date and accessible to today's younger generations.[64] Additionally,

[60] Dr. Tiffany Jenkins, Interview, Via Skype, 27 April 2016.
[61] Ibid.
[62] (Forde, H., Ryse-Lewis, J., 2012); (Jacobsen, T., et al., 2013).
[63] (Hand, M., 2008); (Nakata, M., et al., 2008); (Lee, C. A., 2011); (Stow, A., 2011); (Hudson, C., 2012); (Hughes, L. M., 2012); (Ross, et al., 2012); (Fouseki, K., Vacharopoulou, K., 2013); (Gilliland, A. J., McKemmish, S., 2014); (de Souza, P., et. al., 2016); (Manžuch, Z., 2017).
[64] Pastore, E. M., 'Access to the archives? Art museum websites and online archives in the public domain', Dissertation Thesis, *The University at Buffalo*, 2008.

digitising Indigenous collections serve to attract younger generations of Indigenous Australians, and has a potential to educate present and future community members and non-Indigenous people of current and traditional cultural practices, while also preserving tangible and intangible traditions and Knowledge which are at risk of diminishing over time.[65] This inter-generational exchange of knowledge is stressed by Senior Collections Curator Nerissa Broben at Koorie Heritage Trust to be an integral component to Koorie Heritage Trust's overall mission[66] in the preservation and sovereignty over their heritage, a practice which is similarly displayed within other Indigenous Community Centres across Australia.

The ability to readily gain access to a vast quantity of information has proven beneficial to the general public, increasing participation and engagement between museums and the public as well as improving learning outcomes for individuals, families and communities.[67] Digital archives not only bring museums and their collections into the twenty-first century, but also allow the global accessibility of collections and archives which were previously unavailable unless within a specific museum. In addition, the digitisation of archival resources allows researchers throughout the world to facilitate their research and encourage new insight and developments in respect of subjects previously unknown through resources previously unattainable.[68] While digitising museum collections ensures the preservation of cultural material and wider accessibility of collections for research and educational use, Nakata et al. stress the various complexities which arise in the 'intersection of Indigenous and Western knowledge management systems and between the expectations of Indigenous communities and professionals'.[69] These complexities specifically surround the need to recognise

[65] de Souza, P., et. al., 'Aboriginal Knowledge, Digital Technologies and Cultural Collections Policy, Protocols, Practice', Melbourne Networked Society Institute Research Paper, 4 October 2016.
[66] Ibid., p.41.
[67] Innocent, N., 'How museums, libraries and archives contribute to lifelong learning, IFLL Sector Paper 10', *Inquiry into the Future for Lifelong Learning*, UK, 2009, p. 7.
[68] Chapman, M., 'Managing Collections or Managing Content?: Evolution of Museum Collection Management Systems', in *International Handbooks of Museum Studies: Museum Practice*, McCarthy, C., (ed.), John Wiley & Sons, Ltd.: USA & UK, 2015.
[69] Nakata, M., et. al., 'Indigenous Digital Collections: An Early Look at the Organisation and Culture Interface', *Australian Academic & Research Libraries*, Vol. 39. No. 4, p. 224.

and accommodate different access conditions to culturally sensitive or sacred Indigenous Knowledge, and issues relating to different concepts of Intellectual property associated to both Indigenous and Western Knowledge[70] and how this is ultimately transferred through the digital database and understood by a global and diverse public. The potential to decolonise archives is acknowledged by de Souza et. al. to be encouraged through the rise of digital technologies and participatory models of co-curatorship between institutions and communities, providing a better representation of Aboriginal people and their voice within a public space. [71]

The application of a digital database detailing the human remains within an institution's collection, including adjoining archival information and documentation of the remains, not only would aid in the organisation and categorisation of the number of human remains present within an institution's collection, but also may uncover information pertaining to remains which had previously no known provenance. Furthermore, the introduction of a national database which incorporates records of human remains, specifically Australian Indigenous ancestral remains, from all of the museums and cultural institutions throughout the UK would permit the general public, and specifically Australian Indigenous communities or any Indigenous community throughout the world, to gain access to data associated with ancestral remains, as well as culturally specific information and documentation of traditional practices previously lost, depicted through cultural objects, illustrations and photographs.

Some museums within the UK, such as the British Museum and the Science Museum in London, have already constructed their own individual human remains lists which are accessible via the Internet.[72] The digitisation of institutional human remains lists permits global access to and exposure of the

[70] Ibid.

[71] de Souza, P., et. al., 'Aboriginal Knowledge, Digital Technologies and Cultural Collections Policy, Protocols, Practice', Melbourne Networked Society Institute Research Paper, 4 October 2016.

[72] Science Museum Group, 'List of human remains in the SMG collections', *Science Museum Group*, London, July 2014; The British Museum, 'List of Human Remains in the Collection of the British Museum', *The British Museum*, August 2010, Version 3.0.

listed objects, specifically allowing both cultural institutions and Indigenous communities to examine the collection of human remains, as well as cultural material incorporating human tissue, housed within individual institutions' collections. Additionally, in publishing these lists online, Indigenous communities are being made aware on a global scale of any ancestral remains or secret/sacred cultural materials housed within institutions, and can subsequently work towards a repatriation claim. Examining the British Museum and Science Museum human remains inventories, it appears that these lists are structured in a basic format, comprising a table indicating the accession number, determined provenance, date, and description.[73] Nakata et. al. argue that digitisation is an 'enabling technology' that works to provides the 'virtual repatriation' of objects without physical relinquishment of cultural material from institutions.[74] In a sense this notion is true and perhaps more adaptable to cultural material as opposed to ancestral remains, however in turn the information provided within online archives and documents may also provide the stepping stones required for the submission of a repatriation claim.

On examining online collections and archives, it appears that UK institutions such as the British Museum do, in fact, incorporate human remains within their online databases, although they omit any photographs or illustrations depicting the remains.[75] Even so, the British Museum provides a range of information regarding human remains within its collections, including not only a description and accession number, but also where the remains are said to have been found, their current location within the museum, and the name under which the remains were acquired. It is apparent that photographs detailing the condition of some of the remains are not necessary for when examining the British Museum's human

[73] Ibid.

[74] Nakata, M., et. al., 'Indigenous Digital Collections: An Early Look at the Organisation and Culture Interface', *Australian Academic & Research Libraries*, Vol. 39. No. 4, p. 226.

[75] 'Human skeletal remains', The British Museum, <http://www.britishmuseum.org/research/collection_online/collection_object_details.aspx?objectId=88542&partId=1&searchText=human+remains&page=1> [accessed 20/06/17]; <http://www.britishmuseum.org/research/collection_online/collection_object_details.aspx?objectId=181180&partId=1&searchText=human+remains&page=1> [accessed 20/06/17]; <http://www.britishmuseum.org/research/collection_online/search.aspx?searchText=human+remain> [accessed 20/06/17].

remains inventory and Online Collection database, as there is, at times, sufficient information with which to hint towards provenance and to map out the journey that the remains made; however, this is not the case for all of the remains. In close examination of the archives, it would seem that some records incorporate details of the remains' last proprietor, information which, coupled with additional archival records, may provide the possibility of deciphering the initial person or persons who acquired the remains and, thus, may work in conjunction with the Australian High Commission and the National Museum of Australia to trace the initial collector. However, the addition of extensive information on a globally accessed database would require additional resources and a dedicated research team within each of the UK museums that house Australian Indigenous human remains, utilising time and resources. This extension to the database may, however, prove highly beneficial for the Indigenous people. Nevertheless, as to whether this benefit merits the resources of the UK government and cultural institutions in general is still in question and perhaps considered unlikely.

Within the UK, there are various human remains archives and databases which are currently implemented and designed to rapidly record the number of human remains within an institution's collection. In 2008, the *Dead But Not Forgotten Project* was initiated by Newcastle University to produce a comprehensive catalogue of human remains and associated records originating from the northeast of England, held by repositories within England.[76] According to Giesen, McCarrison and Park, the ultimate aim of the project was to assess the practicality of a major project which initiated an investigation into the prehistory and early history of life and death within the region, in combination with scientific analyses of human remains through the reanalysis of contextual evidence from previous excavations.[77] Though it is encouraged and general practice that UK museums use this information when constructing an inventory of their collections, it was made apparent by Giesen, McCarrison and Park that museum inventories are not continuously updated, with information varying greatly between the museums

[76] Giesen, M., McCarrison, K., Park, V., 'Dead and Forgotten? Some Observations on Human Remains Documentation in the UK', in *Curating Human Remains: Caring for the Dead in the United Kingdom*, Giesen, M., (ed.), The Boydell Press: Woodbridge, 2013, p. 56.
[77] Ibid.

and academic institutions which participated in the project.[78] Even so, what was achieved as a result of the project was the realisation that there is a real need to create and manage a centralised online database for human remains within institutions throughout the UK.[79] Primarily required is a standardised database which is not restricted by the needs of a particular group's interests, but which is strong enough to cater to multiple interests and needs.[80] Though it was highlighted that frustration from both the researcher and the participating institutions was felt, due to the continuous surveys sent and the need for updated inventories,[81] the value of a centralised database was seen to be debateable. Nonetheless, it is suggested that repositories would ultimately benefit from such a database, with curators agreeing that the more that is known about a collection, the more effectively the collection can be managed, accessed and used appropriately.[82]

The *Oracle WORD* (Wellcome Osteological Research Database) Project, which was set up using an award from the Wellcome Trust, was initiated by the Museum of London Group so that over twelve thousand human remains which were accumulated through the excavation of Europe's largest medieval cemetery at Spitalfields Market (London) from 2003–2007[83] could be re-examined and processed in a rapid and standardised method.[84] This database allowed for data to be readily queried for research purposes and curation by the museum.[85] According to the *Oracle WORD* website, this system has been rigorously tested by osteologists; since its inception in 2003, it has been updated to reflect the current needs of present users.[86] As well as being used to determine age, sex, stature and skeletal indices, it additionally is used to describe how skeletal and dental

[78] Ibid., pp. 56–58.
[79] Ibid., p. 60.
[80] Ibid.
[81] Ibid., p. 58.
[82] Ibid., p. 60.
[83] Ibid., p. 88.
[84] 'Centre for Human Bioarchaeology', *Museum of London*, <http://archive.museumoflondon.org.uk/Centre-for-Human-Bioarchaeology/AboutUs/WORDdtb.htm> [accessed 10/05/16].
[85] Ibid.
[86] Ibid.

pathologies are classified, diagnosed and recorded.[87] Comprising three main components, the WORD database aims to capture basic contextual information for each skeleton within its collections, record all bones and teeth present, and record morphological indicators of age, sex, and metric and non-metric data, including evidence of dental and skeletal disease.[88] Furthermore, the database is not limited to osteological data, but also acts as an information repository for supplementary documentation, such as photographs and sampling and biographical data.[89]

This database is an immensely useful tool for the Museum of London in recording the condition, geographical locality, and age of its extensive collection of human remains, including the construction of the deceased's narrative, their affiliated culture, and ancestry.[90] This database, which exhibits an extensive analysis of human remains within the Museum of London, is a clear example of the potential for UK institutions to implement a similar and relevant database which would incorporate all human remains housed within their collections.

Many Australian Indigenous human remains within UK collections are fragmented, which perhaps would restrict the ability of additional re-evaluation and examination. Such a database as the *Oracle WORD*, it seems, would work well in providing the necessary references and documentation needed for the repatriation of unprovenanced Australian Indigenous ancestral remains or any unprovenanced Indigenous remains, providing a chance of returning them to their homeland and, if possible, their 'Country' and kin.[91] Still, as discussed in Chapter Three, the ability to conduct additional invasive examinations and testing so as to determine further information is limited, as permission from the remains' originating community or an associated representative must be acquired, restricting unprovenanced Australian Indigenous remains to solely non-invasive examinations (unless an appropriate authority can be identified to provide permission for invasive methods). Nevertheless, previous scientific discoveries

[87] Ibid.
[88] Ibid.
[89] Giesen, M., (ed.), *Curating Human Remains: Caring for the Dead in the United Kingdom*, The Boydell Press: Woodbridge, 2013, p. 88.
[90] Powers, N., (ed.), 'Human osteology method statement', *Museum of London*, London, 2008.
[91] See 'Kinship' definition in Glossary of Terms.

and examination records are of considerable importance for these remains and should be instrumental within such a database.

The initiation of the *Human Remains Subject Specialist Network* (SSN) is currently aimed at providing mutual support and enabling the transfer of information amongst individuals representing institutions which retain accessioned collections of human remains.[92] With around thirty UK institutions as members, the emphasis of the network is on providing the distribution of skilled knowledge, advice and training for those working with human remains in a museum context.[93] The committee which functions within the SSN responds on its behalf to the various requests for information, be they from the DCMS or other bodies or individuals.[94] However, the group's main focus is on providing support regarding the practical issues facing museum professionals, and does not provide formal policy advice.[95] The SSN website, though simple in its construction, has collated a plethora of relevant documents and links to relevant websites dealing with and including collection lists, policy documents, conference papers, case studies conducted, and links to other relevant UK and international sites of possible interest to the viewer.[96] Bienkowski reinforced the possibility of the construction of a central archive for human remains, suggesting that such a project could be undertaken through the intermediary of the Human Remains Subject Specialist Network, providing that a grant with which to carry out and coordinate the construction of such an archive or database was attainable.[97]

Though such a database for UK museums would be of minimal benefit to the general public, it would, however, prove influential in the repatriation of Australian Indigenous remains and would possibly aid in the implementation of culturally important information necessary in the provenancing of remains within their collections, working in conjunction with the additional input of Australian

[92] 'About us', *Subject Specialist Network*, July 2008, <http://www.humanremains.specialistnetwork.org.uk/about_us> [accessed 01/05/16].
[93] Ibid.
[94] Ibid.
[95] Ibid.
[96] Ibid.
[97] PhD Questionnaire – Piotr Bienkowski response, 10/05/16.

museums and Indigenous community groups. In addition, such a database would serve to aid in the management, accessibility and use of relevant information by UK museum staff, benefitting the expanse and exchange of knowledge to the general public.

Fearing the term 'repatriation'

In recent years, repatriation has been viewed as a positive process with cultural, reflective and educational benefits. The continuous Indigenous outcry for repatriation has been the precursor to the shift in institutional and public attitudes towards, and the treatment of, Indigenous ancestral remains and cultural material within museums (see Chapter One). Museum curators such as Neil Curtis, Tristram Besterman, Lindy Allen, Michael Pickering and many others have been enlightened and encouraged by the greater benefits that their institutions have gained from cooperating and building a rapport with Indigenous communities throughout the repatriation process. As institutions for the general public, and as public representatives and custodians of varying cultures and cultural materials, it is museums' ultimate duty to acknowledge and act in accordance with the opinions and wishes of their audience, specifically the minority groups which are represented within the institutions and their collections.[98] Though there is still opposition present towards repatriation within the UK, with policies which restrict the ability to repatriate all Indigenous human remains within a collection, as detailed in Chapters Two and Three, the negative stigma which accompanied repatriation claims and was so feared throughout the 1970s, 1980s and 1990s is no longer as prevalent within Western society and museums today.[99] With Indigenous people and communities throughout the world immersed within contemporary society, it is perhaps deemed unacceptable to negate and neglect the wishes of a collective which were previously and continuously oppressed through colonisation. Within Australia, the demonstrated fear or concern

[98] Hooper-Greenhill, E., *Museums and the Shaping of Knowledge*, Routledge: London & New York, 1992.
[99] Besterman, T., (Questionnaire response, 24/04/16); Piotr Bienkowski, (Questionnaire response, 10/05/16).

regarding the permanent loss of Australian Indigenous ancestral remains has been the catalyst in the debate for and against repatriation. This has now been overshadowed by the advantages attributed to Australian Indigenous communities and the prospect of reconciliation.[100] However, within the UK, the presumed lack of fear of repatriation may perhaps be attributed to the introduction of independent institutional repatriation policies, procedures and guidelines which have subsequently been implemented to construct a framework for repatriation. These regulatory frameworks, specifically those which lack guidance as to the return of unprovenanced remains, ultimately inhibit the ability of Indigenous communities to claim certain remains, even with remains provenanced generally as Indigenous Australians. Such is the case for ancestral remains which have no community members left in existence or remains from communities which may no longer practise or feel equipped to provide a traditional burial, as they themselves no longer practise their ancestral religion due to the enforced missionary impact on their culture.[101] This, therefore, allows UK institutions to act of their own accord and retain the human remains within their collections indefinitely, as no claim can be made by an affiliated community. Within the UK, there is still active opposition towards issues of ownership and authority over Australian Indigenous ancestral remains and cultural material.[102] It would be seen as unethical, however, to disregard or outwardly deny repatriation claims from Australian Indigenous communities when Australian museums and governing bodies have taken it upon themselves to acknowledge such an ongoing community outcry. The Australian government is committed to acting in accordance with Australian Indigenous cultural beliefs and kinship ties so as to work interactively on provenancing remains and initiating returns in order to 'close the gap' as efficiently as possible between Indigenous and non-Indigenous Australians.[103] Even though UK institutions are not faced with the continuous presence of opposition from Australian Aboriginal and Torres Strait Islander communities, as a previously dominant nation and as pioneers of colonial

[100] Gordon, P., Kelly, L., (2002); Lambert-Pennington, A. K., (2007).
[101] Fforde, C., Hubert, J., Turnbull, P., (2002); Turnbull, P., Pickering, M., (2010).
[102] Jenkins, T., op. cit., (2010).
[103] Australian Government, 'Closing the Gap: Prime Minister's Report 2017', *Department of the Prime Minister and Cabinet*, Canberra, 2017.

expansion, repatriation can now be perceived to be a conscious ethical and moral obligation which needs to be addressed comprehensively.

Nonetheless, should repatriation merely act as a reflection on past attitudes and deeds, enacted upon now in Australia as a convenient platform for reconciliation? Or should a more comprehensive exchange be initiated through this process? What can be seen within Australia, and which has been a recent occurrence within UK institutions, is the educational and cultural benefits and advantages which repatriation provides in the interchange and acknowledgment of different cultures and beliefs[104] and in the decolonisation of Western museums. While Indigenous remains have provided extensive scientific insight, it is by acknowledging and understanding Indigenous spiritual beliefs and traditions that a more in-depth anthropological insight into their unique and ancient heritage, both tangible and intangible, can be achieved. It is an ever-evolving, educated opinion of government and museum authorities and curators that this evaluation, at present, surpasses the value that any current invasive scientific analysis may provide. Therefore, it seems that the exchange of cultural interaction, understanding and education is a far greater tool for the continuation of repatriation on a global scale.

Conclusion

Australian museums have been pioneers in the repatriation of Australian Indigenous ancestral remains, with some acting of their own accord and in partnership with Australian Indigenous communities in order to return and rebury Australian Indigenous human remains from within their collections. While the Australian government has, at times, fluctuated in its support for Australian Indigenous issues and concerns, it is evident that Australian museums have sought to act independently in demonstrating their own appreciation for, and

[104] Fforde, C., Hubert, J., Turnbull, P., (2002); Lohman, J., Goodnow, K., (2006); Atkinson, H., (2010); Turnbull, P., Pickering, M., (2010); Turnbull, P., (2010b); Fforde, C., Ormond-Parker, L., Turnbull, P., (2015); Tythacott, L., Arvanitis, K., (2014).

acknowledgement of, Australia's 'First People' and their traditional beliefs and practices. As a topic which has been highly contentious on a global scale, the construction of a repository which incorporates the issue of 'repatriation' would allow the development and story of repatriation to be told, which may not have been previously known by the general public or possibly some Australian Indigenous people. Moreover, the incorporation of an additional space wherein Indigenous communities are able to interchange their ideas, knowledge and cultural traditions with other Australian Indigenous community groups which have been affected by colonisation and Western hegemony and, thus, no longer remember how to conduct an appropriate and traditional burial ceremony could act as a cultural symbol for cooperation between communities and museums.

UK institutions, however, are slowly recognising the cultural importance that the repatriation of Indigenous ancestral remains has for not only the Indigenous people and communities, but also the ancestral spirits of the remains themselves. That being said, there is still an evident lack of knowledge of non-Indigenous communities, specifically within Europe, regarding the Australian Indigenous culture, its people, the 'Dreamtime', and its various mortuary practices and requirements — a lack of knowledge previously exhibited in the 1900s by Europeans in their thoughtless initial acquisition of Australian Indigenous remains. Many UK institutions have sought to actively repatriate Australian Indigenous human remains; however, policy limitations continue to inhibit their ability to accept all community claims for repatriation, restrictions which should be revised in the application of repatriation unprovenanced human remains. Even so, these various limitations which restrict UK institutions in repatriating and fully deciphering the provenance of human remains within their collections can be perceived to be convenient, as accurate archival records and historical documentation form an essential element when interpreting the 'journey' that the Australian Indigenous remains made so as to find their final place within institutions' collections. It is these archival records and documentation which may prove fundamental in the examination and determination of the historiography and geographical locality of unprovenanced Indigenous human remains. Even so, financial resources with which to delve into institutional archival records,

specifically those pertaining to unprovenanced Australian Indigenous remains, are perhaps not viewed as a priority.

Through the digitisation of collections, UK museums are actively modernising their practices, allowing a greater volume of visitors to gain access to materials within storage facilities. The implementation of a national human remains database which can be publicly accessed, would allow the possibility for widespread Indigenous communities to access the database and would encourage their participation in the exchange of cultural knowledge and understanding in an attempt to aid in the provenancing of ancestral remains and the expansion of the Australian Indigenous culture. Nevertheless, ethical approaches should be acknowledged regarding Indigenous concerns to public accessibility and culturally sensitivity in the recognition of cross-cultural Knowledge. Moreover, consideration into the effectiveness and use of such a database should be considered, taking into consideration Australian Indigenous access to technological facilities. Even so, the exchange of cultural knowledge would initiate a 'cross-institutional' and 'cross-cultural' discourse surrounding the importance of reburial for Australian Indigenous ancestral remains, and an understanding of their ancient cultural practices which should be respected and adhered to by national and international museums, thus enhancing a feeling of reconciliation as well as a country and culture which is finally able to embrace its history.

Conclusion:

Reflections on the continuous dilemma that unprovenanced Australian Indigenous ancestral remains pose for Australia and the UK

The gradual acceptance of the repatriation debate and the consequential claims for the repatriation of Australian Indigenous ancestral remains and remains from other Indigenous communities have risen steadily in national and international institutions since the 1970s. It has, however, been within the last few years that ancestral remains with little to no known provenance have posed a significant dilemma in the repatriation process. Although acceptance of the need for the repatriation of Australian Indigenous ancestral remains demonstrates institutional acknowledgment of the ethical and cultural importance that the process provides, further progress surrounding the particular concerns that unprovenanced Australian Indigenous ancestral remains pose for museums and Australian Indigenous communities must be acknowledged and understood, with definitive solutions being considered and initiated.

The initial fascination with and questionable means of acquiring Australian Indigenous human remains and 'specimens' during the nineteenth century strengthened 'exotic' and often incorrect ideologies of the time. As examined in Chapter One, ideologies such as Darwin's theory of human evolution highlighted

the importance and influence that scientific enlightenment and evolutionary theories had on society. These often outdated evolutionary and racial ideologies are now seen to be unethical and culturally insensitive in contemporary society. While the repatriation procedures appear to be more advanced within countries from which the Indigenous ancestral remains derive, such as Australia, New Zealand, the USA, and Canada, European countries that enforced a significant colonial impact, such as Britain, France, Germany, and the Netherlands, have been slower to respond to Indigenous claims for repatriation[1] and progress in their efforts to decolonise museums. It is important to acknowledge that with the implementation of relevant acts of legislation, such as the NAGPRA, the *Vermillion Accord on Human Remains,* and the *Human Tissue Act*, Indigenous communities throughout the world have been granted some autonomy and greater control through reclaiming their cultural objects and ancestors — control that is ever growing, yet not without obstacles.

Although repatriation is still a contentious topic within the UK, some museums have taken their own individual stance in the debate and, through the construction or amendment of repatriation policies and procedures, have worked to ensure that due cultural consideration is given to any repatriation claim received from an Indigenous community or affiliated organisation. Even with the addition of a joint governmental call for continuous cooperation and encouragement in respect of repatriation between Australia and the UK in 2000, the implementation of individual institutional repatriation policies has allowed museums to 'legally' act of their own accord and in compliance with their own regulations and requirements during the assessment and processing of Indigenous claims. This includes complying with their own regulatory guidelines in the acceptance or rejection of claims, based on institutional policy restrictions requiring sufficient proof of the claimant's cultural affiliation to the prescribed provenance of the remains. These ineffective assessments and consequent decisions are now deemed to be culturally and ethically inappropriate for a Western institution to make without first acquiring adequate consultation and a proper cultural

[1] Macklin, J., Hon, M. P., (2009); Medhora, S., (2014); Turnbull, S., Marciniak, C., Stonebridge, J., (2017).

understanding of the specific Indigenous community who is making the claim. That being said, museums and their trustees to this day still hold the authority to accede or reject a repatriation claim regarding any Indigenous ancestral remains or secret/sacred cultural material housed within their collections.

Within the last thirty years, there has been an increase in academic and museum study of the repatriation of Australian Indigenous ancestral remains and cultural material within UK and Australian museums as well as on a global scale.[2] It is perhaps due to these investigations that new perspectives regarding the cultural importance and insight into spiritual beliefs that Indigenous communities hold towards their heritage and ancestors have allowed change to occur, with museum ethics and practices being further developed to consider and accommodate/recognise these changes. That being said, there has been limited investigation into the impact that unprovenanced Australian Indigenous ancestral remains have on the repatriation process, including the appropriate approach that museums and Australian Indigenous communities should take during the repatriation of these remains, or any further scientific insight that their retention may require or provide.[3]

While the repatriation of Indigenous human remains can be confusing and emotive for both museums and Indigenous communities, with often complicated and ambivalent laws, policies and cultural practices to adhere to, it is encouraging to observe that some institutions within Europe today are acting on their own initiative to repatriate Australian Indigenous ancestral remains from within their collections. In 2014, such a case was seen when Sweden initiated the return of a collection of Australian Aboriginal ancestral remains on the basis of their unethical acquisition.[4] Nevertheless, some museums within the UK are often

[2] Simpson, M. G., (2001; 2009); Fforde, C., Hubert, J., Turnbull, P., (2002); Vaswani, R., (2003); Fforde, C., (2004; 2007); Fforde, C., Hubert, J., (2006); Jenkins, T., (2010); Turnbull, P., Pickering, M., (2010); Gordon, P., Pickering, M., (2011); Clegg, M., Redfern, R., Bekvalac, J., Bonney, H., (2013); Tythacott, L., Arvanitis, K., (2014); Fforde, C., Ormond-Parker, L., Turnbull, P., (2015); Colwell, C., (2017).
[3] Hanchant, D., (2002); Pate, F. D., et al., (2002).
[4] Pickering, M., 'Dance through the minefield: the development of practical ethics for repatriation', in *The Routledge Companion to Museum Ethics: Redefining Ethics for the Twenty-First-Century Museum*, Marstine, J., (ed.), Routledge: London & New York, 2011, p. 259.

resolute in their decision to maintain custody of Australian Indigenous human remains within their collections, with 'convenient', stringent policy requirements limiting Indigenous claims and providing a future means for museums to benefit from the possible prospect of scientific advancements and educational insight. It would, however, be unfair to surmise that all UK museums use their human remains policies and governmental legislation to obstruct Indigenous claims made or that, on the other hand, all Australian museums willingly comply with all of the Australian Indigenous claims for repatriation that they receive.

While the interviews conducted and responses to questionnaires all provided an insight into curatorial and institutional opinions on and approaches to the repatriation of Australian Indigenous ancestral remains from some UK and Australian museums (see Appendix 2–13), they also serve to acknowledge that there are still various unsolved issues and limitations apparent within the repatriation process, specifically in the case of unprovenanced remains. There was a general consensus of opinion that cooperation and the building of a rapport with Australian Indigenous communities, affiliated organisations, and Australian museums were necessary when conducting a smooth and culturally respectful repatriation process. In the case of unprovenanced ancestral remains, however, concerns surrounding the authority and validity of an unaffiliated Australian Indigenous organisation or representative body claiming ancestral remains were questioned and a point of concern for both museums and Australian Indigenous communities. Although the concept of kinship is recognised as valid proof of cultural affiliation within Australian museums, it appears that some UK museums are not always fully comfortable in acceding a request on that sole basis. There were further concerns surrounding the return of Australian Indigenous ancestral remains to a governmental institution or Indigenous body initiated by the Australian government. The reason for this was a fear that governmental institutions' intentions would not always be in favour of Australian Indigenous people's plight, therefore questioning whether the control of repatriated ancestral remains and cultural material should be directly provided to Australian Indigenous representatives and communities. That being said, in most cases it was clear that the repatriation of Australian Indigenous ancestral remains was

viewed as a positive process which promoted cultural appreciation and instilled internal and cross-cultural exchange and discourse, benefitting both the museums and the Australian Indigenous communities involved.

As has been reinforced in Chapter Three, the provenance of ancestral remains, in most cases, acts as a prominent and determining factor in the acceptance of a repatriation claim. Consequently, for the majority of these unprovenanced Australian Indigenous ancestral remains stored within UK institutions, they must stay in 'limbo' within museums' collections, as their unprovenanced status restricts their ability to be claimed by an affiliated community or organisation. This ultimately inhibits their return to 'Country' or their transfer to the National Museum of Australia. Although this is not always the case, the lack of information and guidelines pertaining to the process of repatriating unprovenanced remains is detrimental to both institutions and communities which desire the return of unprovenanced remains in a suitable manner. Many Australian Indigenous representatives and community members, who have played a prominent role in advocating repatriation, prefer the unequivocal and unquestionable return of all Australian Indigenous ancestral remains, provenanced and unprovenanced, to Australian soil, following which they would then await further non-invasive investigation into a determined location of origin, thereby finding an appropriate community which is willing to accept ancestral remains with limited known provenance or elsewhere in a National Resting Place, as examined in Chapter Four.

For many of the Australian Indigenous people, the provenance of ancestral remains is considered as significant as the interment of the remains themselves. This is due to the fear of spiritual repercussions within the community if the interred ancestor is wrongly provenanced and does not originate from their community, with incorrect interring consequently causing spiritual chaos amongst the living community's ancestors within 'Dreaming'. The interment of external and mistaken ancestral remains is viewed by Australian Indigenous communities to be an act of disrespect and, as Tom Trevorrow stressed, will

ultimately impact negatively on living descendants.[5] That being said, it is vital that the Western world be respectful of Indigenous communities and their cultural heritage and beliefs. In turn, it is through the expressed mutual and cultural respect accomplished during the repatriation process that both Western society and Australian Indigenous communities are able to benefit from one another. Museums are encouraged to acknowledge and respect cultural ethical obligations when representing source communities[6] and initiating cultural discourse. This is encouraged through the decolonisation of museums and their collections and the construction of a 'contact zone'.

Consequently, through this cooperation and exchange, museums are able to acquire greater cultural insight into the problems associated with provenance, which may exceed that which could be achieved through possible invasive scientific analysis. Furthermore, through the process of repatriating Australian Indigenous ancestral remains, UK institutions are made aware of some of the traditional burial customs involved in the process of repatriation. Additionally, it is through repatriation and final interment ceremonies that younger Australian Indigenous generations are able to experience, first-hand, the traditional practices of their culture and recognise their ultimate responsibility as living descendants in safeguarding their heritage for future generations. Ultimately, as examined in Chapters Three and Four, the repatriation process of unprovenanced Australian Indigenous ancestral remains requires extensive consultation, consideration, and tact; this, however, should not hinder UK institutions in their deliberations in respect of repatriating unprovenanced Indigenous remains from their collections.

Within the last fifteen years, progress has been made in the development of methods of scientific testing which are less invasive than those conducted during the nineteenth and twentieth centuries. While still not fully non-invasive to skeletal remains and specimens, these tests do permit a potential geographical locality of origin to be determined. Fundamentally, even with the use of carbon

[5] Scobie, C., 'The Long Road Home', *The Guardian*, 28 June 2009, <https://www.theguardian.com/world/2009/jun/28/aborigines-reclaim-ancestors-remains> [accessed 01/04/17].
[6] Peers, L., Brown, A. K., op. cit., p. 8.

and stable isotope readings, as well as DNA and aDNA analysis to determine a possible location of provenance, without consent from an affiliated community, testing cannot be approved for ancestral remains with little to no known origin. Only in special circumstances wherein remains of significant age are discovered within the landscape can archaeological involvement and scientific testing be approved by Indigenous community members or Elders from the region of the place of discovery, rather than from the community from which the ancestral remains may have originated, as was the case for the Narrabeen Man. Interestingly, cases such as that of the Narrabeen Man serve to stress the cultural fear of spiritual repercussions expressed by many living Australian Indigenous community groups when burying non-community members within their tribal boundaries. It is this fear and cultural concern which has restricted the ability of museums, especially the National Museum of Australia, to complete the process of repatriation and provide a traditional burial for many unprovenanced ancestral remains.

Unlike unprovenanced remains, Australian Indigenous ancestral remains which have a known state locality of origin are in a better position for repatriation, and to be reconnected with a possible affiliated community, or have the opportunity of a burial within a state-wide Aboriginal cemetery.[7] Unfortunately, not all Australian states have their own designated Indigenous cemetery or Keeping Place for such remains. Therefore, as discussed in Chapter Three, Australian national museums are working together with Australian Indigenous communities in order to establish a suitable approach to the burial of state-known ancestral remains.

Although establishing communication and cooperation between Australian museums and Australian Indigenous communities is seen as paramount throughout the entire repatriation process, it is evident that some communities are simply unable to provide or feel ill-equipped to conduct an appropriate

[7] These particular cemeteries are federally allocated and recognised by the Australian government, and knowingly associated with the many Indigenous community groups within each individual state (see Chapter Four and the questionnaire from Jamie Thomas: Appendix 6).

traditional burial for repatriated ancestral remains. This forces Australian museums to liaise with surrounding communities in order to gain permission for the burial of external or neighbouring ancestors within their own community boundaries, or to consult over a suitable burial outcome or an alternative solution such as the ACIR's proposal of a National Resting Place.

As discussed in Chapter Two, Australian national museums, specifically those designated as repatriation repositories, take on the responsibility as temporary custodians of repatriated Australian Indigenous ancestral remains from national and international museums, as well as archaeological sites, ensuring that appropriate care and conservation are maintained. It appears that the temporary displacement of remains from one institution to another may be perceived to be contradictory to the desired aim of the repatriation process as a whole and, ultimately, unsuitable in the long term. Therefore, as examined in Chapter Four, in an attempt to establish a plausible semi-permanent solution, the ACIR promoted the concept of a National Resting Place. This Resting Place would serve to facilitate the need to store repatriated ancestral remains, specifically unprovenanced remains, while providing a memorial and educational space for Australian Indigenous communities and the general public to visit and interact. Ultimately, the establishment of a National Resting Place would serve to promote sentiments of goodwill, while also encouraging the reconciliation of the Australian Indigenous and non-Indigenous population.

Various cultural issues and concerns amongst Australian Indigenous communities have been brought to light as a result of the distribution of the ACIR's 2014 community survey. Within Indigenous Australia, finding a specific location within the country which can be established as a 'neutral zone', in order to cater to the 'resting' of unknown ancestral remains, requires careful consideration and diplomatic discussion with Indigenous communities. The location of such an emotive and spiritual place for both the ancestral remains and the living communities has sparked controversy, with various parties continuously torn as to the most appropriate and culturally significant location within Australia. The ACIR has sought to overcome this issue with the proposition of an NRP, which does

not physically bury unprovenanced ancestral remains but figuratively houses them within a facility so that they appear to be at 'rest' in a respectful and culturally appropriate manner. This proposal would allow Australian Indigenous community members from around the country to conduct community-specific ceremonies without fear of spiritual interference or repercussions. Furthermore, in not permanently burying or entombing the remains within the ground, future scientific testing could be possible and may shed light on a specific location of provenance. It must be remembered, however, that concerns surrounding gaining community permission and approved authority when conducting future scientific tests on these remains still pose a particular dilemma. In order to overcome this situation, the designation of a non-governmental authoritative Australian Indigenous body which is allocated to representing and making decisions on behalf of the Aboriginal and Torres Strait Islander peoples may prove promising. While the ACIR was established to take on this position and role for the repatriation of ancestral remains and to support the Australian Indigenous people, its initiation by and connection with the Australian government hinder the committee's sincerity and authority in making objections to governmental proclamations in favour of Aboriginal and Torres Strait Islander concerns and needs.

Presently, the establishment of the NRP is at a standstill. Nonetheless, the ACIR's recommendations and propositions for the NRP, including suggestions from community consultations and surveys, will serve to inform the Australian government of their current discussions surrounding these issues, as well as their recommendations for future developed policies. That being said, although progress in the establishment of an NRP has been initiated through the ACIR's 2014 report, no indication of or governmental feedback on the subject of the construction of the NRP has been provided. It may be perceived that possible financial restrictions regarding the proposal and the ultimate development of such a facility have halted the plans for its construction. The establishment of such a standalone facility would perhaps be viewed by the Australian government as an unnecessary expenditure. Therefore, the installation of an NRP, in conjunction with a national institution run by the Australian Indigenous people, similar to the

National Museum of the Native American Indian within the USA, not only would help to instil Indigenous control over how the Australian Indigenous people and their culture are portrayed within the public sphere, but also may provide greater relevance in shaping the content and narratives surrounding repatriation and the significance of returning both provenanced and unprovenanced Australian Indigenous ancestral remains to Australia.

With the creation of a cultural institution dedicated solely to the Australian Indigenous people and run by Indigenous members, Indigenous Australians would not only be provided with the freedom to exhibit their heritage in their own way, but also be able to engage and educate the general public with regard to their unique and diverse culture, both tangible and intangible, and its people. Additionally, the implementation of such a facility would encourage non-Indigenous visitors to enquire about and appreciate the importance that repatriation provides to the Australian Indigenous people, including how the process serves to reinstall and promote Indigenous autonomy and identity. The idea of an NRP does appear to resolve the issues surrounding unprovenanced remains and overcrowded museum repositories, while also instilling notions of reconciliation and cultural pride and control. Nevertheless, the completion of an NRP is unlikely to occur within the near future, prompting the need to examine alternative approaches which could have a more immediate and direct impact on the provenancing of repatriated ancestral remains, resulting in their timely interment within a community or state.

As discussed in Chapter Five, the presence of unprovenanced Indigenous ancestral remains within museum collections is not an issue solely observed within Australia, but is also present within New Zealand and the USA. While academic investigation into unprovenanced or culturally unidentifiable or unaffiliated Indigenous human remains has been conducted in New Zealand and the USA, different approaches have been acknowledged and implemented by museums in order to solve the issues that these remains pose for both museums and their respective Indigenous communities. In the construction of an appropriate solution to unprovenanced Australian Indigenous ancestral remains, it is important that

alternative approaches be acknowledged and considered during Australia's own deliberations in order to ascertain the most appropriate and respectful outcome.

At present, unprovenanced remains are often not at the fore of concern for Australian museums due to the cost and time needed to investigate and process them. Nevertheless, working to initiate an immediate repatriation outcome, Australian and international museums are rightly focusing their attention towards returning ancestral remains with known provenance. For Australian museums, however, working to locate an appropriate site for burial, and commencing the transferral process from institutions to the community as swiftly as possible, is paramount to the process of repatriation. Even so, it is imperative that unprovenanced remains be neither overlooked nor disregarded due to repatriation restrictions. Through mutual cooperation and partnership between Australian and UK museums, as well as Australian Indigenous communities, alternative non-invasive methods and techniques used for provenancing ancestral remains can be initiated. Such cooperation would allow a more contemporary approach to be initiated through the use of pre-existing archival records, which, in turn, would aid in the construction of cultural exchange. Encouragingly, through continuous cooperation with the Aboriginal and Torres Strait Islander peoples, discussions surrounding the significance of provenance can be developed, and the authority and appropriateness of minimally invasive scientific testing on unprovenanced remains discussed with the hope of establishing valuable insight into a determined locality of origin and an awareness of their important participation in the anticipated construction of the NRP.

As discussed in Chapter Six, it is the benefits of cultural exchange and interaction with Indigenous communities which UK museums should embrace through the repatriation process; such benefits can be reinforced through repatriating both provenanced and unprovenanced Australian Indigenous ancestral remains from their collections.[8] Therefore, it can now be seen as imperative for UK museums to

[8] Curtis, N., ''A Welcome and Important Part of the Role': The Impact of Repatriation on Museums in Scotland', in *Museums and Restitution: New Practices and New Approaches*, Tythacott, L., Arvanitis, K., (eds.), Ashgate: London & New York, 2014, pp. 85–104.

work in conjunction with both Australian museums and Australian Indigenous communities to construct guidelines and an appropriate approach specifically designed for the repatriation of unprovenanced Australian Indigenous ancestral remains.

This research serves to contribute to academic and museum literature, as well as museum practices, in various important ways. Firstly, through acknowledging and highlighting the increasing occurrence of unprovenanced Australian Indigenous ancestral remains within both UK and Australian museum collections through the repatriation process, it would draw attention to the subsequent lack of academic and museum-based literature pertaining to the impact and effect that these unprovenanced remains have on the repatriation debate and museum policies and practices today. Acknowledgment and understanding of the impact of this dilemma and the effect that it has on Australian Indigenous people and museums are achieved by focusing on the rationale behind why unprovenanced remains exist within museum collections, whilst additionally recognising and addressing the cultural complexities which arise due to provenance. This includes consideration towards Australian Indigenous community beliefs, their expressed obligations to ancestral remains, and the safeguarding of their heritage for future generations.

Secondly, the research examines various opinions from academic and museum professionals, in addition to adopted institutional practices, surrounding repatriation and the presence of unprovenanced remains within Australian and UK museum collections. This paper not only highlights the curatorial and policy approaches and recommendations in the process of repatriating Australian Indigenous ancestral remains from UK and Australian museums, but also presents concerns and conflicting ideas surrounding the repatriation of unprovenanced ancestral remains from various institutions. It is through the various curatorial and cultural concerns and recommendations examined that museum professionals within both Australia and the UK are able to understand the extent of the issue which unprovenanced remains raise within the repatriation process and, therefore, are able to work towards an appropriate approach and solution

that is both professionally compatible with museums and culturally respectful. Ultimately, the most important contribution that this research makes is that of reinforcing awareness of unprovenanced Australian Indigenous ancestral remains within museum collections. These ancestral remains need to be recognised and an alternative approach to their repatriation considered, one that perhaps differs from traditional museum practices carried out today. Subsequently, in order to achieve this, museums need to invest in the repatriation process and be provided with the necessary resources and time to effectively liaise with often isolated and scattered Australian Indigenous communities in order to fully comprehend the extent of the issues relating to unprovenanced remains and to work towards finding suitable solutions to the challenges that it presents.

In conclusion, it is inevitable that opposition towards the repatriation of Australian Indigenous ancestral remains from various UK institutions, as well as on a global scale, will continue, with perceived scientific and educational insight taking precedence over repatriation and the final interring of historically valuable resources. It is, however, unquestionable that many of the Australian Indigenous ancestral remains within UK institutions, both provenanced and unprovenanced, were unethically acquired, have links to living descendants who desire their return, and, as once living human beings, deserve cultural respect and the right to have their remains cared for and presided over by their community until provided with a traditional burial within their Homeland.

Glossary of terms

These terms are applied, within this text, according to the manner in which they are referred and utilised within attributed references, or as defined below.

Aboriginality	A person of Aboriginal or Torres Strait Island descent, who identifies as an Aboriginal or Torres Strait Islander, and is accepted, as such, by the community in which they live.[1]
Ancestor(s)	A person, typically one more remote than a grandparent, from whom one is descended.[2] For the Indigenous Australian People, Ancestors are connected through the environment.[3]
Community	The people living in one particular area or people who are considered as a unit because of their common interests, social group, or nationality.[4]
'Country'	In Aboriginal English, a person's land, sea, sky, rivers, sites, seasons, plants, and animals: place of heritage, belonging and spirituality, is called 'Country'.[5]
Cultural Affiliation	Cultural affiliation means that there is a relationship of shared group identity which can reasonably be traced historically or prehistorically between members of a present-day Indian tribe or Native Hawaiian organisation and an identifiable earlier group. Cultural affiliation is established when the preponderance of the evidence -- based on geographical, kinship, biological, archaeological, linguistic, folklore, oral tradition, historical evidence, or

[1] Gardiner-Garden, J., Dr., 'Current Issues Brief no. 10 2002-03: Defining Aboriginality in Australia', *Parliament of Australia*, 3 February 2003, <http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/CIB/cib0203/03Cib10> [accessed 15/05/17].
[2] 'Ancestor', *Oxford English Dictionary*, <https://en.oxforddictionaries.com/definition/ancestor> [accessed 15/05/17].
[3] Paulson, G., 'Indigenous Spirituality', *Australians Together*, 2014, <http://www.australianstogether.org.au/stories/detail/indigenous-spirituality> [accessed 15/05/17].
[4] 'Community', *Cambridge Dictionary*, <http://dictionary.cambridge.org/dictionary/english/community> [accessed 15/05/17].
[5] 'Glossary of Indigenous Australia Terms', *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-indigenous-australia-terms> [accessed 15/05/17].

	other information or expert opinion -- reasonably leads to such a conclusion.[6]
Culturally Unidentifiable	Culturally unidentifiable refers to human remains and associated funerary objects, in museum or Federal agency collections, for which no lineal descendant or culturally affiliated tribes.[7]
Dreaming	A Western term used to describe the Aboriginal spirituality system. The Dreaming encompasses all the cultural values, laws, and knowledge which is passed down through song, dance, painting, and storytelling to each generation. Each language group has their own term to describe their belief system.[8]
Dreamtime	Dreamtime is the foundation of Aboriginal religion and culture. It dates back some 65,000 years. It is the story of events that have happened, how the universe came to be, how human beings were created, and how their Creator intended for humans to function within the world as they knew it. Aboriginal people understood the Dreamtime as a beginning that never ended. They held the belief that the Dreamtime is a period on a continuum of past, present, and future.[9]
Elders	Highly respected Aboriginal people held in esteem by their communities for their wisdom, cultural knowledge and community service. They are responsible for making decisions within the community.[10]
Homeland	Referred to as an individual's native lands or country of origin.[11]

[6] Legal Information Institute, '43 CFR 10.2, (e) – Definitions', Cornell University Law School, 2010, <https://www.law.cornell.edu/cfr/text/43/10.2> [accessed 15/05/17].
[7] Ibid.
[8] 'Glossary of Indigenous Australia Terms', *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-indigenous-australia-terms> [accessed 15/05/17].
[9] 'Aboriginal Dreamtime', *Artlandish Aboriginal Art Gallery*, <https://www.aboriginal-art-australia.com/aboriginal-art-library/aboriginal-dreamtime/> [accessed 15/05/17].
[10] 'Glossary of Indigenous Australia Terms', *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-indigenous-australia-terms> [accessed 15/05/17].
[11] 'Homeland', *Oxford English Dictionary*, <https://en.oxforddictionaries.com/definition/homeland> [accessed 15/05/17].

Human Remains	The term is used to mean the bodies, and parts of bodies, of once living people from the species *Homo sapiens* (defined as individuals who fall within the range of anatomical forms known today and in the recent past). This includes osteological material (whole or part skeletons, individual bones or fragments of bone and teeth), soft tissue including organs and skin, embryos and slide preparations of human tissue.[12]
Australian Indigenous People	The original inhabitants of Australia. This term is applied for both the Australian Aboriginal and Torres Strait Islander peoples.[13]
Indigenous People / First Nations People	The first peoples to a land.[14]
(Safe) Keeping Place	Community constructed Keeping Place. It may take the form of a shed or community centre, in order to house repatriated ancestral remains until the community feels suitably prepared and capable of conducting a traditional burial. Keeping places are specifically community-orientated, and often embrace the traditional role of storehouse for sacred objects.[15]
Kinship	Traditional kinship relations continue to play a role in contemporary Aboriginal communities. While Australian family life often centres on the nuclear family made up of parents and children, Aboriginal family life includes grandparents, aunts, uncles, cousins, second cousins, and the mob.[16]

[12] Department of Culture, Media and Sport, 'Guidance for the Care of Human Remains within Museums', *DCMS*, London, October 2005, p. 9.
[13] 'Glossary of Indigenous Australia Terms', *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-indigenous-australia-terms> [accessed 15/05/17] (Preferences in terminology when referring to Aboriginal and/or Torres Strait Islander peoples, Gulanga Good Practice Guides, December 2016, Gulanga Program, ACTCOSS: ACT Council of Social Services Inc., p. 3).
[14] Ibid.
[15] Simpson, M. G., 'From Treasure House to Museum…and Back', in *Museums and their Communities*, Watson, S., (ed.), Routledge: London & New York 2007, p. 164.
[16] Glossary of Indigenous Australia Terms, *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-indigenous-australia-terms> [accessed 15/05/17].

Museum	A museum is a non-profit, permanent institution in the service of society and its development. Open to the public, it acquires, conserves, researches, communicates and exhibits the tangible and intangible heritage of humanity and its environment, for the purposes of education, study, and enjoyment.[17]
National Keeping Place/ National Resting Place	An Australian governmental initiative, supported by the Advisory Committee for Indigenous Repatriation, for the proposed construction of a space which will provide care for Aboriginal and Torres Strait Islander ancestral remains that cannot be returned home, due to the lack of information about their place of origin.[18]
Reconciliation	A Commonwealth initiative to promote reconciliation between Indigenous people and the wider community and to redress Indigenous disadvantage.[19]
Repatriation	Repatriation is defined as returning an original object or actual remains to the original owners.[20]
Restitution	The return of an object to its owner, based on the analysis of property rights.[21]
Unprovenanced	There is documentation to say the ancestors [human remains] are Aboriginal or Torres Strait Islander, but there is no known information about where, within Australia, they originate from.[22]

[17] 'Section 1, Article 3 - Definition of Terms, Development of the Museum Definition according to ICOM Statutes (2007-1946)', ICOM Statutes, adopted by the 22nd General Assembly (Vienna, Austria, 24 August 2007), 2009, <http://archives.icom.museum/hist_def_eng.html> [accessed 15/05/17].
[18] Australian Government, 'National Resting Place Consultation Report 2014', Advisory Committee for Indigenous Repatriation, *Department of Communications and the Arts*, Canberra, 2015, p. 20.
[19] Glossary of Indigenous Australia Terms, *Australian Museum*, 16 February 2017, <https://australianmuseum.net.au/glossary-indigenous-australia-terms> [accessed 15/05/17].
[20] Pickering, M., Gordon, P., 'Repatriation: The End of the Beginning', (2011).
[21] Whitby-Last, K., 'Legal Impediments to the Repatriation of Cultural Objects', in *The Long Way Home: The Meaning and Values of Repatriation*, Turnbull, P., Pickering, M., (eds.), Berghahn Books: New York & Oxford, 2010, p. 36.
[22] Hanchant, D., 'Practicalities in the return of remains: the importance of provenance and the question of unprovenanced remains', in Fforde, C., et. al., (2002), op. cit.

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Dr. Tiffany Jenkins, Interview, Via Skype, 27 April 2016.

Lindy Allen, Interview, Melbourne Museum, Melbourne, 10 December 2014.

Neil Curtis, Interview, Via Skype, 15 May 2014.

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'Human Remains: Objects to Study or Ancestors to Bury?', *Institute of Ideas*, 2 May 2003, Transcript, <http://instituteofideas.com/documents/transcriptsandreports/HumanRemains.pdf> [accessed 02/07/17].

Images

[Fig. 1] Photograph of Australian Aborigines at the Crystal Palace Exhibition (1884), from Robinson, W., 'Members of R. A. Cunningham Australian Aboriginal international touring company, Crystal Palace, London, April 1884', Photograph, *National Gallery of Australia*, Canberra, <https://cs.nga.gov.au/detail.cfm?irn=149689> [accessed 27/08/17].

[Fig. 2] A primate evolutionary sequence using a modern Australian Aboriginal skull as the exemplar for ancient and primordial 'man', (McNiven & Russell, 2005, p. 61) [Fig. 17 from Huxley, T.H., *Evidence as to Man's Place in Nature*, Williams & Norgate: London, 1863.].

[Fig. 3] Table - Body preparation before burial, Figure 1 from Meehan, B., 'The Form, Distribution and Antiquity of Australian Aboriginal Mortuary Practices', Thesis submitted for the degree of Masters of Arts, *The University of Sydney*, 1971, p. 15.

[Fig. 4] Table - Burial position table, Figure 8 from Meehan, B., 'The Form, Distribution and Antiquity of Australian Aboriginal Mortuary Practices', Thesis submitted for the degree of Masters of Arts, *The University of Sydney*, 1971, p. 93.

[Fig. 5] Differences in the combination of basic traits in Western Australia, South Australia and Victoria, Table 5 from Davidson, D. S., 'Disposal of the Dead in Western Australia', *American Philosophical Society*, Vol. 93, No. 1, 1949, p. 89.

[Fig. 6] The Australian Aboriginal flag, NAIDOC, *The Australian Government*, < http://www.naidoc.org.au/indigenous-australian-flags> [accessed 27/08/17].

[Fig. 7] Indigenous community boundaries, Horton, D. R., (creator), 'The AIATSIS Map of Indigenous Australia', Aboriginal Studies Press, AIATSIS, and Auslig/Sinclair, Knight, Merz, 1996, *ABC*, < http://www.abc.net.au/indigenous/map/> [accessed 27/08/17].

[Fig. 8] Australian Indigenous population distribution (2011 census data), *Monash University*, <http://monash.edu/research/city-science/indigenous_australia/> [accessed 27/08/17].

[Fig. 9] Major General Horatio Gordon Robley seated with his collection of Maori Toi moko in 1895, Stevens, H., (1843-1925), original photo, 'Robley and his mokomokai collection (1895)', image credit: Wellcome Images.- Wellcome Library, London, <https://en.wikipedia.org/wiki/Horatio_Gordon_Robley#/media/File:Robley_with_mokomokai_collection_2.jpg> [accessed 27/08/17].

Appendices

Appendix 1:

Secret Instructions to Lieutenant Cook

30 July 1768

BEGIN TRANSCRIPT

Secret

By the Commissioners for executing the office of Lord High Admiral of Great Britain & c[a.]

Additional Instructions for L[t] James Cook, Appointed to Command His Majesty's Bark the Endeavour

Whereas the making Discoverys of Countries hitherto unknown, and the Attaining a Knowledge of distant Parts which though formerly discover'd have yet been but imperfectly explored, will redound greatly to the Honour of this Nation as a Maritime Power, as well as to the Dignity of the Crown of Great Britain, and may tend greatly to the advancement of the Trade and Navigation thereof; and Whereas there is reason to imagine that a Continent or Land of great extent, may be found to the Southward of the Tract lately made by Capt[n] Wallis in His Majesty's Ship the Dolphin (of which you will herewith receive a Copy) or of the Tract of any former Navigators in Pursuit of the like kind, You are therefore in Pursuance of His Majesty's Pleasure hereby requir'd and directed to put to Sea with the Bark you Command so soon as the Observation of the Transit of the Planet Venus shall be finished and observe the following Instructions. You are to proceed to the Southward in order to make discovery of the Continent abovementioned until' you arrive in the Latitude of 40°, unless you sooner fall in with it. But not having discover'd it [or any Evident sign of it] in that Run you are to proceed in search of it to the Westward between the Latitude beforementioned and the Latitude of 35° until' you discover it, or fall in with the Eastern side of the Land discover'd by Tasman and now called New Zeland.

If you discover the Continent abovementioned either in your Run to the Southward or to the Westward as above directed, You are to employ yourself diligently in exploring as great an Extent of the Coast as you can carefully observing the true situation thereof both in Latitude and Longitude, the Variation of the Needle; bearings of Head Lands Height direction and Course of the Tides and Currents, Depths and Soundings of the Sea, Shoals, Rocks &c[a] and also surveying and making Charts, and taking Views of Such Bays, Harbours and Parts of the Coasts as may be useful to Navigation. You are also carefully to observe the Nature of the Soil, and the Products thereof; the Beasts and Fowls that inhabit or frequent it, the Fishes that are to be found in the Rivers or upon the Coast and in what Plenty and in Case you find any Mines, Minerals, or valuable Stones you are to bring home Specimens of each, as also such Specimens of the Seeds of the Trees, Fruits and [FIRST PAGE ENDS] and Grains as you may be able to collect, and Transmit them to our Secretary that We may cause proper Examination and Experiments to be made of them. You are likewise to observe the Genius, Temper, Disposition and Number of the Natives, if there be any and endeavour by all proper means to cultivate a Friendship and Alliance with them, making them presents of such Trifles as they may Value inviting them to Traffick, and Shewing them every kind of Civility and Regard; taking Care however not to suffer yourself to be surprized by them, but to be always upon your guard against any Accidents.

You are also with the Consent of the Natives to take Possession of Convenient Situations in the Country in the Name of the King of Great Britain: Or: if you find the Country uninhabited take Possession for his Majesty by setting up Proper Marks and Inscriptions, as first discoverers and possessors.

But if you shall fail of discovering the Continent beforemention'd, you will ~~with~~ upon falling in with New Zeland carefully observe the Latitude and Longitude in which that Land is situated and explore as much of the Coast as the Condition of the Bark, the health of her Crew, and the State of your Provisions will admit of having always great Attention to reserve as much of the latter as will enable you to reach some known Port where you may procure a Sufficiency to carry You to England either round the Cape of Good Hope, or Cape Horn as from Circumstances you may judge the Most Eligible way of returning home.

You will also observe with accuracy the Situation of such Islands as you may discover in the Course of your Voyage that have not hitherto been discover'd by any Europeans and take Possession for His Majesty and make Surveys and Draughts of such of them as may appear to be of Consequence,

without Suffering yourself however to be thereby diverted from the Object which you are always to have in View, the Discovery of the Southern Continent so often Mentioned.

But for as much as in an undertaking of this nature several Emergencies may Arise not to be foreseen, and therefore not ~~to be~~ particularly to be provided for by Instruction beforehand, you are in all such Cases to proceed, as, upon advice with your Officers you shall judge most advantageous to the Service on which you are employed.

You are to send by all proper Conveyance to the Secretary of the Royal Society Copys of the Observations you shall have made of the Transit of Venus; and you are at the same time to send to our Secretary for our information accounts of your Proceedings, and Copys of the Surveys and discoverings you shall have made and upon your Arrival in England you are immediately to repair to this [SECOND PAGE ENDS] Office in order to lay before us a full account of your Proceedings in the whole Course of your Voyage; taking care before you leave the Vessel to demand from the Officers and Petty Officers the Log Books and Journals they may have Kept, and to seal them up for our inspection and enjoyning them, and the whole Crew, not to divulge where they have been until' they shall have Permission so to do.

Given under our hands the 30 of July 1768

E^{d} Hawke
Piercy Brett
C Spencer

By Command of their Lordships
[SIGNED]
Ph^{p} Stephens

END TRANSCRIPT

Questionnaires

Treatment of Unprovenanced Human Remains in UK and Australian Museums

Appendix 2:

Tony Eccles

Royal Albert Memorial Museum

Questionnaire Response (15/04/14)

Questionnaire (UK Institutions)

Section One:

- **Are there Australian Indigenous human remains within your museum?**

A. Not anymore.

(If answered No in above question, please move to Section Three)

- **Is the origin of the remains known?**

- **What is their current status?** (i.e. Are any remains in the process of repatriation or have been requested? Is their history of display known? Are they in storage?)

Section Two:

- **How is the repatriation process managed for Australian Indigenous remains? (What are the various steps in the process?)**

- **What are the various outcomes of repatriation for your museum?**

- **Would your institution be more inclined to repatriate knowing that the National Museum of Australia acts as an temporary repository for Australian Indigenous remains especially without known provenance?**

- **Have you had an extant relationship with an Australian Indigenous group**

while conducting a repatriation?

Section Three:

- **Has your Museum taken part in the repatriation of human remains?**

A. Yes.

- **How is the repatriation process managed for human remains within your collection?**

A. HR policy was created in 2009 and annexed into the existing 2005-10 Acquisitions & Disposal Policy (this was done as a result of being a member of the Human Remains Subject Specialist Network). It has since been tweaked and included in the institution's Collections Development Policy 2014 – 2019.

- **What are the various outcomes of repatriation for the museum?**

A. The repatriation of human remains has been a positive outcome for RAMM with full local authority support, due in part in wanting to avoid negative press.
Support has also been due to good donor documentation where cranial provenance was discussed and also in part by the indigenous communities and the High Commission of the Australian government working amicably with the institution.

Appendix 3:

Emma Martin

National Museum Liverpool

Questionnaire Response (07/04/14)

Interview Questions (UK Institutions)

Section One:

- **Are there Australian Indigenous human remains within your museum?**

A. Yes - please see on-line report at http://www.liverpoolmuseums.org.uk/about/corporate/policies/human_remains_inventory.pdf

(If answered No in above question please move to Section Three)

- **Is the origin of the remains known?**

A. This differs between the human remains, often we only know the collectors name or the institution the remains were in before NML - please see on-line report at http://www.liverpoolmuseums.org.uk/about/corporate/policies/human_remains_inventory.pdf

- **What is their current status?** (i.e. Are any remains in the process of repatriation or have been requested? Is their history of display known? Are they in storage?)

A. There are no repatriation claims against the remains still housed in NML. All are in store.

I have no details on display to hand.

Section Two:

- **How is the repatriation process managed for Australian Indigenous remains? (What are the various steps in the process?)**

A. Each is a case by case basis, you would need to look at the files to see the process

- **What are the various outcomes of repatriation for your museum?**

A. Return

- **Would your institution be more inclined to repatriate knowing that the National Museum of Australia acts as an temporary repository for Australian Indigenous remains especially without known provenance?**

A. We take each case on a case by case basis

- **Have you had an extant relationship with an Australian Indigenous group while conducting a repatriation?**

Section Three:

- **Has your Museum taken part in the repatriation of human remains?**

A. Yes

- **How is the repatriation process managed for human remains within your collection?**

A. Designated officer leads and acts as point of contact for the requesting group.
Dialogue opened up, research undertaken to determine if possible point of removal from indigenous community. Report submitted to Trustee, decision made by Trustee.

- **What are the various outcomes of repatriation for the museum?**

A. Return.
Do not return.

Appendix 4:

Lynne Heidi Stumpe

National Museum Liverpool

Questionnaire Response (30/05/14)

Questionnaire (UK)

Section One:

- **Are there Australian Indigenous human remains within your museum?**

A. No. Skeletal and mummified remains were repatriated in recent years (see below). However, there are still some items from Australia in the collections which incorporate human hair, see the inventory at http://www.liverpoolmuseums.org.uk/about/corporate/policies/index.aspx

(If answered No in above question please move to Section Three)

- **Is the origin of the remains known?**

- **What is their current status?** (i.e. Are any remains in the process of repatriation or have been requested? Is their history of display known? Are they in storage?)

A. See inventory for details of items incorporating human hair. Their precise areas of origin are unknown. They have not been requested for repatriation. All are in storage at present, though may have been placed on temporary display the past.

Section Two:

- **How is the repatriation process managed for Australian Indigenous remains? (What are the various steps in the process?)**

- **What are the various outcomes of repatriation for your museum?**

- **Would your institution be more inclined to repatriate knowing that the National Museum of Australia acts as an temporary repository for Australian Indigenous remains especially without known provenance?**

- **Have you had an extant relationship with an Australian Indigenous group while conducting a repatriation?**

Section Three:

- **Has your Museum taken part in the repatriation of human remains?**

A. Yes, Maori and Moriori remains to New Zealand (2007) and Aboriginal remains to Australia (2009 onwards).

- **How is the repatriation process managed for human remains within your collection?**

A. See NML website for relevant policy document:
http://www.liverpoolmuseums.org.uk/about/corporate/policies/index.aspx

In practical terms, a lot of time had to be set aside for curatorial research to confirm the origins of the human remains recorded as Australian (three individuals). This included archival and historical research, and collaboration with biological specialists.

One individual (a mummified child) already had the provenance of Erub/ Darnley Island, Torres Strait, which was straightforward to check, and the remains were handed over to representatives from Erub and the Australian High Commission. However, the other two individuals were not so clearly provenanced.

One of these two (a second mummified child) could be provenanced to north Queensland from mummification techniques documented in the nineteenth century, and confirmed by correspondence with Queensland Museum. The mummified child was received by Australian High Commission representatives.

The provenance of the skull of a third individual was unknown from documentary and similar sources, and needed to be confirmed as Australian in origin in other ways. Therefore, a researcher from the Museum of London Centre for Human Bioarchaeology was asked to examine the skull in detail, and the results were sent

to Richard Wright at the University of Sydney for analysis. Professor Wright concluded that the skull was of mixed Australian and European ancestry. It was therefore received by representatives of the Ngarrindjeri people and the Australian Government in 2009, as part of a repatriation tour for unprovenanced Australian human remains.

- **What are the various outcomes of repatriation for the museum?**

A. In the first instance, research on the remains requested for repatriation is prioritised, and this can have research benefits for other areas of the museum collections.

The repatriation procedure also benefits the development of dialogues and partnerships between the museum and originating communities, and between the museum and other associated organisations and individuals. This has multiple beneficial outcomes, including more culturally-appropriate care of collections.

The process relating to the repatriation of the New Zealand remains (with the first request for their return received in 1991, see Stumpe 2005, below) also helped to inform subsequent policy relating to human remains in general, as well as guidance on repatriation in particular.

Stumpe, L.H. 2005. 'Restitution or repatriation? The story of some New Zealand Maori human remains', *Journal of Museum Ethnography,* 17: 130-140.

Appendix 5:

Deanne Hanchant-Nichols

Questionnaire Response (01/12/14)

Questionnaire (Australia)

Section One:

- **What are your personal views on the repatriation of Australian Indigenous human remains?**

A. I firmly believe that all Australian Aboriginal remains should be repatriated to Australia whether or not they can immediately be returned to communities.

If they have documentation with them I believe that individual state museums (if they already have a safe place) take custodianship of them until a community is able to rebury.

If they have no provenance I believe that the National Museum would be the best repository for them at least in the short term. I would rather that these ancestors be at least back in their own country rather than on shelves in a foreign country.

Whilst my preference is have the remains buried, I believe it is of utmost importance that remains go back to their own country for reburial if that is the wish of the community so it is important that Archival work be done to ascertain whether or not a provenance can be established.

- **Have you previously taken part or consulted in the repatriation of Australian Indigenous human remains from an Australian or International institution or collection?**

A. Yes. I was the Archival Researcher for 4 years on the National Skeletal Provenancing Project. During this time I visited every state museum collection in Australia as well as a number of university collections. I liaised with a number of Aboriginal communities who wished to have their remains repatriated from

within Australia and I also liaised with International institutions to help repatriate Australian remains.

- **What do you feel should be done with Indigenous human remains which hold little to no known provenance and will unlikely be returned to a community for traditional burial?**

A. I refer you to the following exert from my Masters Thesis:

With regard to the unprovenanced remains, I strongly believe there is a need for non-invasive research to be conducted with Aboriginal community approval. This is the reason why I so strongly supported the Provenancing Project and was eager to be involved in it. It is the reason why I have continued to work privately with communities and other organisations to look at the issues affecting our unprovenanced Ancestral Remains. All archival sources need to be exhausted and it is important that if possible the Remains be measured and compared with provenanced Remains if there is to be any hope of locating the area of their origin. 'The measurements and observations are important in the determination of race and sex, in addition to forming a valuable contribution to existing data with which other skeletal Remains may be compared in future'. (Bennett & Ellender, 1987, p. 56) If provenanced Remains are reburied without some study they will take with them much of the information that enables scientists to make these comparisons, thus making it more likely that unprovenanced Remains will remain exactly that. I believe that if there is any hope that by studying these provenanced Remains it could help the unprovenanced Remains then the scientists should be given permission to measure the Remains before they are reburied. But let's do it and then rebury them, I certainly don't advocate holding up the repatriation process for too long or indefinitely.

Personally, I am not totally at ease with the idea of a central repository or burial place for unprovenanced remains because I don't know how the spirits of those remains will feel being buried out of their country, and in many cases separated from the rest of their mortal remains. But I would rather that than have them remain to sit on museum shelves for an unspecified time. They have been there long enough. The unprovenanced remains returned from Edinburgh University have suffered this fate; they are back in Australia but still cannot be returned to their own country simply because it is not known. Remains from this collection returned to Western Australia with a likely provenance of the Broome area could not be reburied until their identity was proven. The local community did not want to bury the remains in the wrong country. Given this it seems that there would be many people who share my view that a central burial place for all remains is not the answer. However, anything that can be done to provenance these remains should be implemented and this means studying remains of known provenance to give us information that can help with the unprovenanced. To me the remains are people, they were living breathing individuals who walked the earth, who had struggles and triumphs and who deserve to be given a chance to be returned to their own country.

The reality though, is that a number of the unprovenanced remains will remain just that. I don't believe that we should keep them on shelves 'in case' a new technique comes along. The scientists have had them long enough. In a meeting of the South Australian Aboriginal Heritage Committee in early 1996, two members suggested that the site of the old Colebrook Children's Home be used for reburial of South Australian unprovenanced remains. Other people disagreed. Darcy Pettit, Marcia Langton, Darryl Pearce and the late Ken Colbung, all expressed to me personally their hopes for a National Memorial in Canberra (similar to the Australian War Memorial) where the unprovenanced remains can be buried. This idea has certainly gained merit in some communities and a number of people I have spoken to think it is an idea worth pursuing. Whilst it is not my preferred option, one would hope that we could express to the spirits of those old people that we doing the best we can for them and we hope their spirits would find it preferable to be at a memorial site than on the shelf of a museum.

The notion of Keeping Places without reburial does not sit well with me, if for no other reason than that of security as I can't help but think back to the removal of the Tasmanian remains from Oyster Cove in 1988. They were found some three days later but what if they hadn't been or worse still were dumped indiscriminately? Bates (1990) says he thinks that some skeletal material of exceptional scientific significance should be studied by scientists if they have permission from the Aboriginal community involved. When the studies are finished the remains should be returned to the community for reburial or to be kept by them in a Keeping Place in the area where they came from so they can be looked after. The remains should not be kept in museums or universities away from their homelands. It's a good idea but again I don't think it can be that simple. Not all communities have Keeping Places and those that do, do not necessarily have the necessary security and storage areas that would be required for the safeguarding of remains. Some communities are happy to leave their ancestral remains for safe keeping in a museum if they can have access to them and control over them. (Hanchant, 1997) This is an issue which will need to be negotiated between individual communities and the museums.

The debate of a National Keeping Place was again raised in 2013 and a number of community consultations were held around Australia. Due to other commitments I was unable to attend a consultation but did provide the group with a written submission. As of December 2014 I have yet to hear any outcomes from the process.

- **Do you feel that the allocation of the National Museum of Australia as a temporary repository for repatriated Australian Indigenous human remains, especially those with no know provenance, is beneficial for both the remains and indigenous communities?**

A. See above.

- **What is your opinion on the establishment of a National Keeping Place in Australia for Australian Indigenous human remains? Is it necessary? Do you feel it benefits Indigenous communities and/or the human remains themselves?**

A. See above.

- **Do you feel that the possible establishment of a Safe-Keeping Place internationally for remains with little to no known provenance would be beneficial for their maintained care, conservation and analysis to determine provenance, or would it be unnecessary?**

A. Not if the remains are known to be from Australia. They should be returned to Australia even if they cannot go back to their own country. However, if there was a Safe Keeping place for totally unprovenanced remains within an overseas institution I would think carefully about the pros and cons of it. There would need to be very strict guidelines around access and it is something that I would see as problematic to set up as there would be so many groups involved.

Section Two:

- **Do you feel International Institutions are less inclined to repatriate Australian Indigenous human remains as it is a voluntary decision for Institutions to make?**

A. I think it is dependent on the Institution itself and its culture and often too the country in which it sits. In the early 1990's for example, very few British institutions would even entertain the idea of repatriation even when 'pushed'. However, in many cases that was a management decision which was not supported by staff as a whole as Moira Simpson's survey of staff in the UK showed. As there were many more requests for repatriation and laws changed it became clear that many institutions were amenable to the idea of repatriation and were they themselves contacting the Australian Government and / or community organisations.
However, it seems that a number of the European institutions are less inclined to report on what their collections hold.

- **Do you feel more should be done to encourage International institutions to repatriate Australian Indigenous human remains? If so, what do you suggest should be done?**

A. In a word – Yes! I would suggest something similar to NAGPRA which makes it compulsory for all government funded organisations to declare their collections of Indigenous human remains and grave goods (and in NAGPRA's case Sacred

items) in order that individual communities and in this case countries have an idea of just what is held from their country. At the moment for some institutions it is up to them to decide just what to disclose and many don't.

- **Do you feel that lack of understanding and compassion towards Indigenous people and their culture expressed by International institutions may impinge on their decision to repatriate?**

A. Absolutely. Given that six out of ten non-Indigenous Australians (as per the Reconciliation Australia 2012 Barometer http://www.reconciliation.org.au/wp-content/uploads/2013/12/2012-Australian-Reconciliation-Barometer-Overview.pdf) had never met an Aboriginal or Torres Strait Islander Australian it is not surprising that an International institution would have a lack of understanding and compassion towards Indigenous people and their cultures. Non-Indigenous people often have quite a different view of death and the dead and find it difficult to understand the connection we have with our land and our ancestors. Similarly, many of the scientific community also do not understand why our ancestors are so important to us. Education is needed as well as a coordinated and positive approach to Repatriation.

Appendix 6:

Jamie Thomas

Questionnaire Response (10/05/16)

Questionnaire (Australia)

1. **Have you ever encountered a community who is willing to rebury Indigenous ancestral remains which are only provenanced to a particular state in Australia (e.g. Victoria)? If so, what was their reasoning to accept the remains?**

A. Yes, I was apart of the weeroona unprovidenced Victorian Ancestors reburial, held by the Wurndjeri people. It was of the understanding that by re funereraling these Ancestors on Wurundjeri land it was central to other Victorian communities to visit when needed as this was the most important thing so they were not in boxes anymore, back in country was better.

2. **What do you feel is the best solution for Indigenous Australian ancestral remains which have very little to no known provenance?**

A. We can wait and wait for "science" to help us providence the Ancestors or we can return them to country, of where traditional owners are happy to be the custodians of that resting place. To me this is the preferred option.

3. **Do you feel that the construction of a National Resting Place is beneficial to the ancestral remains and the Indigenous Australian People, or should focus be on establishing provenance for unprovenanced remain and aid communities in the reburial of ancestral remains?**

A. If the Resting place was constructed to the communities needs and cultural specifications and that the Ancestors were not treated as science objects then that could be a solution whilst we work through what communities need, and this will change from community to community.

4. **What do you feel is the best way of provenancing repatriated unprovenanced ancestral remains? Are there any limitations?**

A. Research, bio metric and any other non invasive is the preferred option for me.

5. **Do you feel the Indigenous Australian people should take part in the provenancing of ancestral remains with little to no known provenance? If so, how? If not, why?**

A. Yes, path ways for education and employment, as a part of providence is important and is culturally respectful.

6. **Is there anything you feel UK institutions should do to aid in the repatriation of Australian Indigenous ancestral remains within their collections?**

A. Ummmm Give them back ASAP :-)

Appendix 7:

Tristram Besterman

Questionnaire Response (24/04/16)

Questionnaire (UK)

1. **Should UK museums be more pro-active in the repatriation of Australian Indigenous human remains within their collections, especially remains with little known provenance? If so, how? If not, why?**

A. This question implies that all UK museums behave in the same way, which as you know, they do not. Some may need to be more proactive, others not. As a standard, I think that every public museum should carry out a detailed audit of their holdings of human remains. That should be reported to the museum's Governing Body recommending action that is consistent with the museum's policy on human remains (if it has one).

On the issue of proactive repatriation, in my opinion procedure should be in line with the recommendations of the DCMS *The Report of the Working Group on Human Remains* (2003), specifically Recommendation XV *Consent* (pp.170-171). This goes much further than the DCMS *Guidance for the Care of Human Remains in Museums* (2005), which notoriously watered down the WGHR recommendations, largely as a result of the interests of some members of the drafting panel in retaining human remains in their own institutions (Museum of London, NHM, Cambridge University).

In 2007 I chaired a cross-departmental committee at UCL to draw up a policy on human remains to enable the university to have the right procedures and policy for when the *Human Tissue Act* was to become enforceable. The policy was formally adopted by UCL and used until recently to be accessible on-line. It no longer is, so I will attach this to my email as a pdf doc. You will see that a proactive stance is advocated in para 6.6.1 on p.11. If you cite this, please note that there is no evidence that this policy still applies at UCL.

2. **Do you feel that the construction of a publically accessed archive detailing all of the Australian Indigenous human remains within UK museum collections would be beneficial to the progress of repatriation between the UK and Australia? If so, how? If not, why?**

A. Provided that representatives of all relevant Australian Indigenous groups agree to such publication (and there is likely to be divergent views on this), I'm all for transparency. The importance of ensuring Aboriginal consent and control of the publication process cannot be overstated. There is sure to be considerable cultural sensitivity on such a development.

3. **Do you feel that the term 'Repatriation' is still feared and avoided today by UK museums and specialists; such as archaeologists, scientists, anthropologists etc.?**

A. Again, it would be a mistake to generalise. There is a spectrum of opinion on the subject. In general my impression, based on anecdotal, rather than structured evidence, is that opinion has shifted in the last twenty or so years towards a more positive attitude to repatriation.

Language is important. The three Rs scale slides from '***restitution'*** (connoting a moral obligation to right past wrongs – see Tiffany Jenkins on the subject – esp. her recent *Keeping their Marbles*) through a more moderate ***'repatriation'*** (acknowledging that things can be given back to the people/place they came from), to ***'return'*** (a more nuanced, non-judgmental implication of things going back).

4. **Should Australian museums provide more support to UK museums when conducting a repatriation? If so, how? If not, why?**

A. I wouldn't use the word 'support'. Constructive engagement by all parties (UK museum, Australian museum and source community) will produce the best results.

5. **Do you believe that UK museums fully comprehend the cultural significance for the Australian Indigenous people in the returning and reburying of their kin, or is guilt guiding their decision?**

A. Once more, the question is framed as a generalisation, which it is misleading to make. Comprehension and empathy varies enormously and as in all things, it boils down to the individuals, their attitudes and values. The staff of the Duckworth Lab at Cambridge strongly reject the legitimacy of all claimant communities unless evidence of direct lineal descent can be proved; at the other end of the spectrum is The Manchester Museum.

6. **Do you believe that Australian Indigenous human remains which have very little to no known provenance are less likely to be repatriated from the UK due to their limited historiography and their ultimate placement within the temporary repository of the National Museum of Australia? (as opposed to a specific community or affiliated organisation for burial).**

A. It depends on the policies and attitudes of each institution. It didn't stop the Manchester Museum from repatriating unprovenanced human remains in 2003; The Duckworth wouldn't dream of repatriating such material.

7. **Do you feel that the establishment of a Safe-Keeping Place within the UK for Indigenous remains with little to no known provenance would be beneficial for their maintained care, conservation and continuous non-invasive analysis to determine provenance, or would it be unnecessary?**

A. There may be two categories of human remains to consider here. For unprovenanced

human remains that are known to be or can be shown to be from a particular geographical region (New Zealand, Torres Strait Islands, Australia, West Africa for instance), they should go to an appropriate, properly established and resourced Keeping Place in the country of origin. To do otherwise would continue the kind of patriarchal practice for which the colonial era is notorious. The returning museum has a duty to work with colleagues overseas to ensure that the Keeping Place is approved by the government authorities of the source nation and under the control of indigenous representatives. (there are difficult issues at Te Papa, as you may know).

For human remains with no provenance at all *and with no way of establishing where they come from* (does such material exist?) I' venture to suggest that such material has so little cultural or scientific value that its retention I any 'Keeping Place' would be hard to defend. perhaps a well-documented and properly conducted, dignified burial would be the best treatment.

Appendix 8:

Piotr Bienkowski

Questionnaire Response (10/05/16)

Questionnaire (UK)

1. **Should UK museums be more pro-active in the repatriation of Australian Indigenous human remains within their collections, especially remains with little known provenance? If so, how? If not, why?**

A. Yes. They should develop Human Remains policies which commit them to be pro-active in contacting other countries and communities when they have reason to believe they hold human remains from those communities. Manchester Museum did this a few years ago – their human remains policy is available online – and this has resulted in several repatriations. In such cases, the museum does not wait for a community to contact it about a potential repatriation: instead, it takes the lead and contacts the community pro-actively. 'Little known provenance' often means that the human remains cannot be ascribed to a particular community – in most cases, they will know whether they are Australian or not, and that should be sufficient.

2. **Do you feel that the construction of a publically accessed archive detailing all of the Australian Indigenous human remains within UK museum collections would be beneficial to the progress of repatriation between the UK and Australia? If so, how? If not, why?**

A. Yes. To be honest, most museums already have a record of all the human remains in their collections – maybe with the possible exception of the Natural History Museum. It would be a relatively straightforward task to collate all this into an online archive. It could be done through the intermediacy of the Human Remains Subject Specialist Network, maybe by giving them a grant to carry out and coordinate this work.

3. **Do you feel that the term 'Repatriation' is still feared and avoided today by UK museums and specialists; such as archaeologists, scientists, anthropologists etc.?**

A. A little, yes: though less so than it was years ago. There are now many examples of successful repatriations which a) have not emptied museums of their collections, which archaeologists feared, b) have led to more research being done on the human remains than was ever done before when they were part of museum collections, and c) have led to positive and ongoing relationships between UK museums and indigenous communities which benefit both.

4. **Should Australian museums provide more support to UK museums when conducting a repatriation? If so, how? If not, why?**

A. My impression was that, through the auspices of the Australian High Commission, the Australian government and Australian museums already gave a lot of support and practical advice to UK museums. I am not aware if the High Commission still runs seminars on repatriation for UK museums – they used to, and these were very helpful. I'm not sure if anything more is necessary.

5. **Do you believe that UK museums fully comprehend the cultural significance for the Australian Indigenous people in the returning and reburying of their kin, or is guilt guiding their decision?**

A. Not all of them do. Many museums still give precedence to a Western materialist worldview, which does not accept the significance of 'ancestors' as valid. I don't think it is so much 'guilt' that is guiding their decisions, as the need to be seen to act politically correctly. However, this is changing slowly.

6. **Do you believe that Australian Indigenous human remains which have very little to no known provenance are less likely to be repatriated from the UK due to their limited historiography and their ultimate placement within the temporary repository of the National Museum of Australia? (as opposed to a specific community or affiliated organisation for burial)**

A. It may be that they are less likely to be repatriated. However, this should not be the case. If it is clear that they are of Australian provenance, even if the precise community cannot be identified, then they should be returned to Australia if that's what the Australian government and the communities want. The temporary repository is a solution that has been agreed with the indigenous communities (many of whom do not yet have the resources and facilities to rebury their ancestors). It is not up to UK museums to decide where indigenous Australian human remains should be kept once they are returned.

7. **Do you feel that the establishment of a Safe-Keeping Place within the UK for Indigenous remains with little to no known provenance would be beneficial for their maintained care, conservation and continuous non-invasive analysis to determine provenance, or would it be unnecessary?**

A. Only if this is agreed with the indigenous communities and the Australian government. If they prefer repatriation, to a community or to a temporary repository in Australia, then that is what should happen. The Australians are perfectly capable – probably more capable – of carrying out tests for provenance. I cannot actually foresee any circumstances in which they would prefer the remains to stay in the UK. It would sound to me like an attempt by British museums to prevent repatriation and to continue to have the human remains available for research – which is anathema to indigenous communities.

8. **Do you feel that it is important for UK museums to build a stronger rapport with Australian museums and specifically Indigenous communities? If so how? If not, why?**

A. Definitely yes. The whole purpose of museums is served better through such contacts and exchanges, by getting to know other cultures and bringing people and different perspectives together. There are many examples already of UK museums forging stronger and sustainable links with indigenous communities and Australian (and other) museums as a result of repatriations or discussions about repatriations – e.g. Glasgow, Manchester, Pitt Rivers (note: not all these are with Australia, some are with Native American communities – but exactly the same principles apply).

Any additional comments:

Interview Transcripts

Appendix 9:

Neil Curtis

Interview, Via Skype, 15 May 2014

BEGIN TRANSCRIPT

NC: Neil Curtis **I:** Interviewer

NC: Firstly, I've been involved in 3 cases and the 1st one was about the headdress within the collection that was returned as a sacred bundle to the Kainai Frist Nation society. There were 2 significant things with that, 1 was that it wasn't regarded as human remains within the museum sense, and the ones requesting it were the Horn society that were wanting to put it back into traditional use. The Horn society isn't a legally constituted body so that's the pint, it's not a Western body, so they had set up a heritage foundation as a legal entity, to which we could then transfer title and then the [recording disrupted] foundation could then crack on and pass the headdress onto the Horn Society for them to look after it appropriately. So there needed to be that legal intermediary So that we could transfer title away from us, so it had to cease being Aberdeen property to become someone else's and that someone needed to be a legal entity.

I: So then if there is no legal entity there can't be a transfer?

NC: Well that is the problem. We could physically transfer but legally that would be a loan unless we were holding onto the title. So, there is this issue of the transfer of title, and they dealt with that very neatly, because you wouldn't have wanted to transfer title to an individual person. To be a group of people then that has to be a lot more formal to say who they are. The next case was the Toi Moko, and that request came from Te Papa. Toi Moko are regarded as human remains and Te Papa clearly is a legal entity, so that raised different issues. My concern there was that the legal entity which was Te Papa, is know what their relationship is with the people who were actually receiving their ancestors. Whereas with the Kainai, it was the other way around and we were directly talking to the people that were going to get that [headdress] back as a separate problem, which then had a legal entity which we used as a technicality in order to make it work. Whereas with the Toi Moko we were dealing with the legal entity rather than the people's whose ancestors this was. I would say that that was interesting and troubling, as the contact from Te Papa, was very professional.

I: Did Te Papa give you any indication of which community it was?

NC: This was one of the Questions we asked. Te Papa came to use with a letter from Helen Clarke, who was the New Zealand Prime Minister at the time, mandating them to act on behalf of the New Zealand Government to repatriate all the Toi Moko. So they clearly had the authority of the New Zealand Government, and the way Te Papa is structured as a bi-cultural organization, means that there is thorough Maori involvement in the running of the museum, they basically have joint chief executives. My questions therefore were: what was their relationship with Maori anyway, who would be the ones whose ancestors were being considered? As it was not the institution that is Te Papa. I remember at one point saying that no-one else is asking and why? My main criticism of museums is that they are often unreflective institutions, they classify their collections and they classify their visitors so there is a tendency for those classifications to take place of reality. So, that is where Te Papa was a very sensible body for the New Zealand government to use, because other museums around the world would have someone from Te Papa museum come in or other museum professionals, we can talk to each other and we understand the museum world so it makes it very easy and reassured many museums that they were transferring something from their collection to another museum collection. Even though they knew the other museum would deal with them very differently, nonetheless they were reassured that it was still a museum. So, when we did repatriate the Toi Moko they were literally repatriated from Scotland to New Zealand, but they didn't cease to be museum objects. Whereas with the headdress, that ceased to be a headdress and went back to being a sacred bundle, it therefore stopped being an object, and we ceased to have any right at all now that it was no longer an object. For me paradoxically, that transfer to the Kainai was a more absolute and collection disturbing transfer and I felt a lot more comfortable with it than the other which felt more like a western fix. However, I know that then, Te Papa store the Toi Moko in a particular way that doesn't treat them as the bulk of their collection, but we were asking them about their relationship with *iwi* [Maori communities], and while I'm deeply ignorant and will say this as very much an outsider, but because there isn't a new Zealand level of Maori governance, such as in Canada where there is an assembly of Frist Nations, and in a sense what is happening in North America is that native tribes have recognised, begrudgingly, the existence of the USA and Canada, and they have created organisations with parallel western governments. Whereas the impression that I get in New Zealand is that New Zealand is not recognized by Maori *iwi*, they are in themselves the nations. Therefore, that means that if you set up a National Museum, as in New Zealand, that isn't a national Maori organization as the western body would see it. So, their ability to represent the Maori *iwi* was negligible, so they were some of the questions we were asking. We wanted them to talk about how they did consult and how they were able to represent the interests of the *iwi* that would have had a right to repatriate those Toi Moko.

I: Did Te Papa tell you much about their relationship with Maori *iwi?*

NC: They told us about the various consultation structures they had, the way in which different *iwi* take turns in being responsible for certain things, the bicultural quality of the museum, so they talked about all of that, and that satisfied us and demonstrated

that it was good enough to repatriate the Toi Moko. What we logically agreed to was that the Toi Moko as ancestors should not be in Scotland

I: So, was that the underlining thinking, that they ultimately shouldn't be in Scotland?

NC: The logic as I understood was about linkage. So, having agreed with that logic you then have to think of what is the best available way to achieve that? The perfect way would be to identify which Toi Moko goes to which *iwi* and transfer them to them, but because we don't know then you have to choose, as we did, a compromise which was Te Papa that were 'good enough' for temporary purposes. The alternative would have been to hang onto them, which would have been more wrong, whereas with the transfer to the Kainai I regarded that, as near as possible, to a perfect result. But with Te Papa it was good enough and the least worst option. I think other people may view it the other way around, where the transfer to another museum is seen as more prefect, as it brings you all the assurances of the museum. The other example is with Aboriginal Australian human remains, where we have some that were in the anatomy museum as part of their comparative anatomy collection, so racial specimens. We have records of acquisition, which as far as I'm concerned are dodgy. There is also very little academic interest in using them in Aberdeen, so what I'm saying is preempting a decision because their repatriation hasn't formally been discussed, but these are just my feeling on it, but the other ones did go through the process and it has been complete. Now the difficulty with the aboriginal remains to start with is the classic issue that we can't identify who they are and to whom they should actually go, we've also not had a request from somebody about their ancestor, instead we have had requests stating that they are acting on behalf of Aboriginal people generally.

I: Oh really, so there was a very general request for these remains?

NC: Yes. So that initial contact kicked off the process. They said that they were an official body acting on behalf of Aboriginal people, but then they [The Aboriginal and Torres Strait Islander Commission] were abolished, so that therefore meant things went quiet. We had that initial contact and we were starting to talk and then silence. We then had contact around 3 years ago from the Australian High Commission, who can and visited and sent an otologist to study the remains and say that yes I am content that these are Australian Aboriginal remains, so that identification element all panned out, but now things have gone quiet. We obviously have a procedure with dealing with repatriation requests, but it has to be triggered by somebody making the request.

I: So, with no one asking the remains are just staying put.

NC: Yes. So that is where it's hanging now, and I'm rather uncomfortable with it because with the headdress the first contact I had was August 2002, they visited in November 2002, we made a decision in May 2003, and they came and took it away in July 2003.

I: So that was quite quick.

NC: That was pretty quick, but I liked that speed and that was us working as fast as we could in response to their request. So, I'm frustrated with the Aboriginal material that it is not us that are delaying, yet it looks as though it is us delaying and I'd really like to get this dealt with. But in this case, I do have genuine concerns [recording interrupted] The little bits I know about the Australian government's attitudes towards Aboriginal people doesn't give me great confidence that they are the best representative.

I: With recent political instability, it might mean that you are holding on to the remains for a while longer.

NC: I have an instinctive lack of trust in western governments to represent native people. So, as a starting point they have to prove rather than assume that they do. That's what I felt with in the case of New Zealand and Te Papa, I was satisfied that they were doing a reasonable job in representing the interests on Maori people in an international scale, whereas I wasn't convinced that the Australian government was doing that at all.

I: Do you feel there is something the Australian government can do or perhaps Aberdeen in order to move this process along? Perhaps contacting indigenous people and agencies?

NC: This is when it becomes pragmatic, as the amount of time we have to do what we'd like to do is negligible, so unfortunately it falls into that category. And where it's going to be a difficult thing to do then it falls down the list and that is where I would genuinely find it difficult to know who to go to. Definitely something could be made to work but this is where I don't know enough about Australian Aboriginal politics, but if there were some body that were able to say that "we will be a representative, contact us as we will be a conduit" then maybe.

I: I do know that the National Museum of Australia do play a big role in the international repatriation of human remains, but then again resources aren't always there within the museum, and again the issue again as you have mentioned is in making sure that the institution does speak for communities.

NC: That is the difficulty that we are sitting with now. The next line is that when we brought the remains from anatomy and into a cultural space within the museum, I did that as I decided that I'd rather be the one handling requests rather than leaving it to anatomists, as it was something that didn't worry but interested me and I felt it would be a good thing, whereas to the anatomists they viewed it [repatriation] as a threat that would just use up their time towards something they weren't interested in because they are teaching anatomy and as things have moved on their aren't

interested in teaching racial comparative anatomy. We therefore acquired a lot of other specimens from all over the world, some with tribal names written on their forehead. So now I currently have some work to do in tallying all the information we have about the remains with the skulls so that we know for sure which one is which. Once we have done that, I'm then wanting to let people know that these remains exist, as these anatomical specimens have just remains in anatomy, they haven't been catalogued, not body know that they are there so the first step would be making sure that we know what we have got and then making it available so then we can respond to requests.

NC: When they have their names written on them it's easy, but when the labels have fallen off and you have 3 skulls and 4 records then that becomes a problem.

I: What do you do with fragmented bones, like bits of femur where you can't really identify them.

NC: Well that's it precisely that is the problem.

I: If in the instance that you do have fragmented remains that you know are Australian Indigenous or possibly from a state within Australia, can you still repatriate them?

NC: We just don't know, we will find out what will happen in the case of the remains we currently have. This is where I have my reservations with this human remains category that I think quite a few people in museums have started accepting this category of human remains that brings with it a susceptibility of repatriation an increased right in other people in the collection, restrictions on display and handling, there is a whole different way that they ar treated by allowing that is partly a way in protecting the rest of the collection from those challenges. So when you say that "yes Aboriginal people have the right over the remains", you are therefore saying in a way that "they don't have a right over the artefactual material", and yet that is a western assumption that there is a difference between artefacts and human remains, which doesn't apply. So, I'd rather just feel that entire collection is out there for everyone to see it, so I don't want to have a policy where it says we will repatriate human remains and then have to write a definition of what human remains are.

I: Okay. So, if someone came to you asking that they had a sacred drum or object that was immensely sacred to their culture of community and they wanted it back that would be something you would readily consider?

NC: That's what we did with the headdress, that's exactly what happened.

I: I did notice that Australia is very forthcoming when it comes to repatriating secret/sacred material back to communities, however the UK is not at all, so it's wonderful that Aberdeen have recognized the cultural significance cultural material has.

NC: The difference for us is that even though we do have secret/sacred material in our collection, it hasn't yet been identified as such and its sacred content is not a cataloguing category so it's not something we can readily evaluate, we can't just pick up an object and know if it is sacred or not, that has to come from someone else saying that it is. So, for us we are responding to what they say rather than us classifying it. Museums in Australia have ways of behaving that relate specifically to secret/sacred material and we can't do that because we aren't in Australia and we have material from all over the world so there isn't a community for us to work with. Even though I worked with the Kainai and I am still sort of in touch, but we can't build up that on-going relationship that I could if the museum were in Calgary. That is where I think a lot of the best practice in working with museums and indigenous people comes from New Zealand, Australia, Canada and the US. [recording interrupted] in the conventional museum practice that social history curators do they work with the local community people near the museum, this is normal conventional practice. However, it is not always followed, and though it is a good practice within Australia or countries which have Frist Nations, it's not really a practice for us to follow so we have to do something different as we have stuff from all over the world. If we do have some unidentified human bones, we have absolutely no idea where in the world they come from, whereas if you were in an Australian museum and you have some unidentified bones, then the chances are they are most likely Aboriginal, therefore you can do something with them, we really can't. It would be very wrong of us to assume that all indigenous people are the same so let's just give them to the next lot of indigenous people who come in, and this goes back to the wester categories of indigenous people as being a little different therefore they are all the same. Again, for museums, because of this treatment of human remains as a different category of human remains within museums they are now seen as something that doesn't really sit comfortably in the collection that now there are a number of curators who don't want to have human remains in their collections so they are refusing to acquire any new ones and they are actually trying to get rid of them. Sometimes they transfer them to another museum where they will look after them or they will say please let someone try and repatriate them, and they will actually put some effort into contacting someone of indigenous people to repatriate. Something that is done in museum practice is sometimes going to indigenous people informing them that you have some of their indigenous ancestors and that they want the community to take them away is really cruel. So western museums are doing things cruelly when thinking that they are being kind, but it's because they aren't thinking. So that is where I'm caught in wanting to be positive in repatriation but not necessarily pro-active.

I: It is evident that the issue of re-burial is causing further problems for Australian Indigenous communities as there are no traditional mortuary practice specifically for the reburial of remains so many communities are having to construct new burial ceremonies which reflect that need.

NC: Yes. That is why I felt I'd rather have material documented and we have it available online, for people who want to discover what we have, and then they can contact us. The challenge then is can we make the decision-making process not an unpleasant one, which I think we do okay on but what we can't do is make it cheap. That is one thing I have notices through past cases, the New Zealand Government and Australian Government are not poor, they can afford to send people across the world. Whereas what was interesting with the Kainai is that is wasn't a western government supported group, however they have I think the largest reserve in Canada that has natural gas, so therefore they are relatively wealthy so were able to afford to send people on a plane to Scotland to discuss the repatriation, and you do think "that is really uncomfortable". We are actually remarkably poor as a museum, our operating budget £28,500 a year and we have a staff of seven people, so we can't afford it. The only thing that I have been doing is [recording interrupted]

NC: We've got a rather good small collection of South East USA bead work it's late 18th and early 19th century so before the Trail of Tears so for the Cherokees etc. it's quite important, as because of the Trail of Tears they don't have much stuff that old due to the disruption and displacement. So, it's actually in Aberdeen and they are interested in it, and they are often particularly interested in it not ac sacred material but more as retrieving lost skills. The Cherokee had an exhibition a few years ago, and have been talking with the Chickasaw in constructing an exhibition next year. But in this case, I don't think repatriation is ok as there are 3-4 different tribes and we can't identify which one did the bead work, and each of those tribes, because of the Trail of Tears, there is a tribal entity into Georgia and another entity in Oklahoma, and some of them have split even further. So, there are about 10 tribal entities that have a legitimate claim on the material, so it would be very difficult to say which one should get anything. So instead, as none of it seems to be sacred material I felt that we needed to be able to lend it cheaply, and I was really proud when we lent it to the Cherokee a few years ago, they did borrow from all over the US and us and they said that our loan was the cheapest loan. That is because we did it my transporting the object through hand luggage on an economy class flight whereas the others were using professional art movers. What I'm thinking of right now is writing a policy for our museum that would loan indigenous objects to communities which have a connection with the material should be treated differently. There should be different conservation standards and different expectations of what the conditions are that they can house the object in, and trying to make it cheaper so that is the Metropolitan museum wants to borrow the bead work we should be treating that differently to if Chickasaw wanted to borrow it. I think that is where if objects are not going to be repatriated there still needs to be access to it, and we also have to look at online access, because if it is the techniques of manufacture that communities are interested in then the addition of really close up photographs taken at the request of a bead worker would actually be more useful than if one person got to have it in their museum.

I: So, you really don't have that many communities approaching the museum for repatriations?

NC: No, very few.

I: Do you think that if you did have an archive or list that was put up online that the museum would likely get more requests?

NC: Not really.

NC: I find repatriation fascinating, I really love it, and you obviously find it interesting, but that doesn't mean many other people do, and most Aboriginal people have many other things to worry about so repatriation is pretty low down of their pecking order. The danger is if we start thinking that it is more important than they do, demanding that they jump to our tune when we think of repatriation, so if we can continue to look after the objects and remains until they want it then that's fine. The big problem then is the global inequality, and that is something we [Aberdeen museum] are not going to be able to solve but we can do our own little bit.

I: If you are aware of the situation currently present in Australia, what is your opinion on the establishment of a National Keeping Place within Australia for Indigenous remains

NC: As I said with Te Papa, it is okay. It means that at least things are marginally nearer than they are now and you could probably be reassured that there are much more sympathetic people looking after it. So, it definitely sounds better than the present, but it might be a temporary step to an answer but it's not the answer. Although my reservations would be, as they were with Te Papa, is in someone comes to me saying that "we are the National Keeling Place give those back", then I would want to know if they have aboriginal people sign up to this or it is another western institution claiming to act on behalf of the aboriginal people

I: Do you feel that UK curators have enough knowledge surrounding the spiritual connection which Indigenous people have with their ancestral remains?

NC: No, we don't and to an extent we can't. In the case of the Kainai return I can only tell the museum story, I can't begin to tell the Kainai story or what their beliefs are, that is up to them. So, I don't need to know what they believe and it would be wrong to start demanding that I do know. I don't think we should have the knowledge, but what we need is trusting those people that the object or remains in question hold more significance to them than to us. So, it's about shifting to trust the people who are asking that they would only want something that really does matter, we don't need to know why it matters to them, we just need to know that it matters. Trust is really the challenge and how you establish that, particularly if there are indigenous groups which have been involved in various repatriation cases and have had unpleasant experiences they are liable to come to the museum not in a very trusting way, so that makes it harder to build that trust. With the Kainai, that's what we did, we spent a lot of time just talking and going around in circles which is what we did, and I was pleased because the year after we repatriated they took me out to Sundance to see it dance for the first time because they wanted me to see, not only the end of the story but the next

step, but that was because we built that level of trust that we actually cared about each other and that therefore made it work smoothly. Whereas if I think I had been more academic about it and demanded to know "what the headdress means to you, tell me all about your spiritual beliefs", that would have likely disrupted that trust, I might have had more factual information but in terms of making a decision I don't think it would have helped.

I: With regards to getting press coverage of returns that you have conducted, have there been any people that come back to you saying that the return was not a good idea or that it should have happened differently?

NC: In both cases, when we have returned things the agreement was that they weren't to be shown. That meant that the media stopped being interested as they wanted something visual, Western culture is so visual. The BBC came to the museum with the camera and everything and asked if they could film the headdress, and we said no. So, in that case they said "right we can't do it as television, we'll only do it as radio". So, it only went out as a radio and print story, so we lost a huge amount of publicity for the museum because of that.

I: Was that your decision not to show the headdress or was it the community asking for it not to be shown?

NC: We discussed it, and I knew that it would make them [community] unhappy. The whole logic of the repatriation was that we were acknowledging that this was something sacred and special to them, therefore you have to follow that logic you can't not. We originally talked about creating a replica and the more we talked they said that they would be willing to make a replica, and they would have been willing to let it be filmed if that were the only way that they could get the headdress back. It mattered to them so much that they would do thing to compromise and hurt themselves in order to achieve it [the repatriation]. The realisation of that willingness was one of the things that built the trust. Likewise, with the Toi Moko we wouldn't let them be filmed so we didn't get nearly as much media exposure. So, it's a tricky one as often you don't want the coverage, the interest of the museum is maximum coverage, the interest of the indigenous people is minimum coverage so you have to come to a compromise there. There was another aspect you asked about initially, regardless of if it happened or not, the coverage was very positive and I think it's about the way the story was told put out a very positive media story. It was in no one's particular interest to start picking at us. There was one exception and that was in the Sunday Telegraph where there was a weird rant, again it's about political correctness, that we were used as a key to that where the headline was "Britain's Maddest Museum" with a rather racist and anti-Scottish/Aberdeen about Scots being mean and not giving things away, and here was one giving things way in a politically correct way, etc. So. in a way "your friends are your enemy and your enemy are your friends" kind of way. The other one that we did around 2004, was when we did an exhibition about repatriation and furthering our story. So, we told our story and then talked about other museum cases, we borrowed the replica Ghost Dance shirt from Glasgow and we put some other things out as well we have some Benin bronze heads, we put out

on display, it was only a small exhibition nothing special, and we had a poster board up where we had all the [inaudible], and we had another one for visitors to leave their comments. We go a lot of comments then and I think there was only one critical one, I knew who it was and he is a friend but he didn't agree with the decision but that was all, and in a way, I was looking for a bit more contention.

I: Well that's a positive note, it is nice to see the public supporting repatriation.

NC: Honestly, the whole thing is not a big deal. For you and me this is a big deal but for others it's not.

I: Well I think that's about it, unless there is something else you feel that I really need to know or should address?

NC: No, I think I've said enough.

I: Well thank you so much, and if I do think of anything else to ask at a later date is it okay if I email you?

NC: Please do, and please let me know of what you end up finding from your research.

I: I will do. Thank you.

END TRANSCRIPT

Appendix 10:

Dr Michael Pickering

Interview, National Museum of Australia, Canberra,
7 December 2014

BEGIN TRANSCRIPT

MP: Michael Pickering **I:** Interviewer

I: How long had the NMA been doing repatriations? Just as an overview.

MP: It's a young museum. It only officially came into existence with legislation in 1980, and only established as a museum in 1985, so basically since 1985. Throughout the 80s and 90s there was a slow return of human remains to people, usually initiated by the communities themselves. They would come to the museums and ask, usually there would be a bit of debate within the thought process, but the museum always had a philosophy that the remains should go back.

I: Really?

MP: We inherited our remains from the old Australian Institute of Anatomy, which is now the Australian film and sound Archive. So, they came across with a lot of collection objects as well, arriving here [NMA] as a lump in 1985. So that's when we started repatriating.

I: Okay

MP: Around 1991 a big shipment of remains from the Edinburgh University arrived and they were looking for somewhere to put them. So, they contacted the National Museum. Partly by mistake in reading the legislation.

I: Oh really?

MP: Yes. There was a piece of legislation call the Aboriginal and Torres Strait Islander Heritage protection act. Now that says that any remains that have been 'discovered' should be reported to the minister. The minister may then or should take action to return the remains to the community involved or in the situation where custodians can't be found should put them into a prescribed authority. The National Museum was the only prescribed authority at the time. So that was misinterpreted as saying the National Museum has responsibility for all remains returned from overseas. When in reality we [NMA] only had the responsibility to be the repository for unprovenanced remains. Remains which do not have any known community. So that's where it started. Nothing Illegal happened there, it was just a matter of a resigned a service agreement providing a repatriation services. Now those remains [Edinburgh collection of 1991] most of them were crania and some full skeletons. It was discovered that there was another room in Edinburgh which was filled with post-crania material. So, it took years to get through all that, which they did and in 2000-2001 they returned back to Australia as well. We had the job then of reunifying the remains, pull the skulls with the bodies, and repatriation. So, the slow movement that happened through the 80s increased a little during the 90s as some of the skulls were returned straight back to communities. Come around to 2000-2001 the Government made a strong financial commitment through the Aboriginal and Torres Strait Islander commission, and the museum developed a specific repatriation unit, where it's whole job was repatriation.

I: Is there still a lot of funding coming through from the Government?

MP: It has its ups and downs, but that funding lasted for about 4 years. It was very good, and that was in support of the international regions. There was also a project to separately fund a different organisation and to fund domestic returns from within Australian museums and collections. So, we could return our own collections, but the Australian Institute of Anatomy collection want the resources paid for them. The international remains, the Edinburgh remains, another paying source payed for them. That when I came on as head of the repatriation. After a few years the money started to trickle, and various organisations came and went. We've had money given to us but it would only be there for a year. Which any repatriation exercise invariably came to an end after 2,3,4, years. So, we couldn't commit, as we couldn't promise a community if we couldn't follow through over a certain timeline. As consultants can take longer to do certain things, so it was a bit awkward there for a while. In the last couple of years, they re-vamped it and all the 7 major Australian museums now get funding for repatriation for both national and international repatriations, it is all united now international and national repatriations came together and they are all funded under the same thing. But this is not as great as it used to be, but is certainly adequate for our purposes.

I: Well at least there is funding which is really good. And depending on where the remains have to go to, say within a community in Canberra, would they come here

[NMA], or if it was a community in Melbourne, would it go to the Melbourne Museum? Or does it just go to which ever museum is closest?

MP: Well originally, they would all come through us [NMA], but over the years we have been able to persuade museums that it is now suitable for alternative methods and worth checking that they go straight to communities. There is actually no need for a museum to intervene. That has always been our approach.

I: So that is just for remains which have provenance, so ones that don't would they then have to come to the museum [NMA]?

MP: They don't have to come here, but we are the only place that has been receiving unrprovenanced remains, as most of the other museums don't want them.

I: Really? Why is that?

MP: Well they don't know what to do with them, they don't have the funding, they don't have the space and space is at a premium, and it just divides collection. Therefore, it means that unprovenanced remains which are repatriated from overseas end up everywhere. Certainly, if they were provenanced to Queensland, they can go to Queensland, that's if it is a generic provenance, and they do. Mainly they come in here, mainly from individuals and various specific places where they've got through to the provenance of "Australia". But in between there is everything, from every region, say from the Kimberleys, from Western Australia, from Northern Australia, it just gets bigger all the way to just Australia. And that's where we get most of our remains now from, most are unprovenanced. Originally, we had provenanced remains, but now we have less of the provenanced remains as they can go straight to communities and we get more of the unprovenanced. We won't usually return remains to an institution unless that institution is endorsed by an Aboriginal community as a repository. But out principle is that the ownership of the remains has to belong to the community. The reason is that politics change, directors of museums change, staff members change and transferring remains between institutions gives that institution property rights, and if anything changes, then people can't get their remains back. Were they to become community property then that community at any time, regardless of changes in museum policy, it can't assert authority over someone else's property. So that's why we'll always repatriate to communities.

I: So with remains that have no provenance, what's that issue if you can't find a community? What then happens, does the NMA have the authority to decide what to do with them if you can't establish a community?

MP: We're [MNA] just holding them. We have them, we don't decide anything. Although we have had some investigators using biometric analysis, and more invasive testing and such, just to determine if they can be provenanced any more precisely, from

unprovenanced to provenanced. Sometimes you have information such as the collector or the chain of connection, sometimes. A lot of institutions just don't go that deep, they don't do the background research, and that's a big problem. Sometimes you get if something was collected by William Ramsey smith we can be 80-90% sure that it was collected from South Australia or the Northern territory. If then biometric analysis says south Australia then there's a much greater likelihood. But Biometric analysis by itself has a lot of problems because it always compares something with the nearest known sample so if there are groups that we have no remains from then it will jump [skip] them and say it's from the nearest known example. And in which physical anthropologist don't share their information, because they have no monopoly, so when they run a test they will say either it's Aboriginal Australian or it's African, because that's the only two samples they have to compare with so it has a lot of issues so we don't rely on it, it's a useful little agent if the rest of the jigsaw puzzle is there and that missing part comes in as the biometric is the final piece that fits then that's okay, but we wouldn't rely on biometric analysis alone.

I: What else would you use then?

MP: That's about it. We just sit and wait and hope that we can get some research done into the history of the remains to make those connections. Now that's what's coming out of our repatriation project, and that it is the history of the collection, where they have come from. In a lot of institutions there is a huge amount of information in their archives, but they don't go in their archives, the go to the box [of the human remains] and read off the box or they look at the register, and they take all the information from the first source. Very few people, given it takes time, we don't do it full time, or we use other people's work, as it takes time to go right back through all the letters, correspondence history of a particular collector, where his travels were. It's hardcore history, but we're trying to argue that we need more of it. But if the remains come here, and they will be marked as unprovenanced, and they may have some strange words next to them, now I knew what those words were, they were the old names, 19 century names for Aboriginal groups. Now the reason I knew it is because I use to work in the area where those names were. So, they [the remains] came here [NMA], they went into unprovenanced, I pulled out the record when they arrived and I immediately told the department. It took 15 minutes to find a list of alternative spellings of the name provided. We located the names, plus the fact that they were co-located they were neighbours, which again adds to their integrity, and it was just 15 minutes of work. Again, they didn't ask researchers, they treated it like a service, rather than ask for research background to be done. So now essentially, they have been provenanced, they are in storage but they will go back. And the groups are tiny little language groups.

I: And there still are groups there?

MP: Yes.

I: Have you ever had any remains where there is no community member left?

MP: There's always someone. We are a lot more flexible and Aboriginal forms of succession to 'Country' mean there are legitimate processes. They are a bit of a hang up probably over in Europe about biological descendants, well we look at cultural descendants: people who have a right as an Aboriginal tradition to look after those remains. Now that doesn't mean that you have to have a biological connection. States die out.

I: And is that something museums in the UK don't understand?

MP: Yes. All they have to do is look at their own lords of the manors and realise that that it happens. It happens to anyone. And people are blocked, people gain the authority through ceremonial participation through long term residence, a whole lot of forms of affiliation. Over time certainly groups change, their boarders are flexible but people inherit, and they see themselves and are seen by their neighbours which is crucial, as the rightful people to speak for their heritage in that area. So, we [NMA] are not bothered by it. If we do know they're a direct biological ancestor, certainly they get priority but it's very hard, and there are very few genealogies that were kept at the time, people are very creative these days. There's two sorts of genealogies, there's biological genealogy and then there's cultural genealogy, social genealogy; one that hold society together, Richard the 3rd, there's blood tests, things that are normally happy buried in the midst of time because they provide that sort of DNA testing. Which only creates hassles for people.

I: So does the NMA has a strong partnership with Indigenous communities around Canberra and Australia in general?

MP: We form relationships with the groups we deal with. We don't have any remains from Canberra. So, if repatriation occurs with the Canberra communities our relationship is more. But we are closely involved with them as a museum, they are regular contributors to our openings, exhibitions, they are our guests, we deal very closely with them.

I: With exhibitions, would they come and help with the interpretation of objects and the exhibitions?

MP: It involves them certainly. They come and do the Welcome to Country, they are great host for Aboriginal people who have come from outside Canberra, they make them feel welcome which is very important. Especially as they are coming onto someone else's Country, it's nice to be allowed to be there. So that has been very good. We deal with very much with the Nanmbry and Wonawong communities.

I: Are there many unprovenanced remains within the national museum that you really aren't sure what to do with them?

MP: Yes, there are lots of them. Many of the unprovenanced remains will probably relate to George Murray Black. Now George is a pastorist, he used to collect remains for the institute of anatomy. Now because it was an anatomy institute, they weren't interested in the archaeology or provenance or the culture. He just saw a skull with a hole in it, therefore that's interesting for an anatomist, so that goes it to the collection. Here is a long bone, that's been broken and healed again, that's interesting for an anatomist. He says, in his own words: "all the rest I threw into the creek", so he just throws them away. What it means is that he didn't label all the remains he kept, some of them he did and wrote down Regis River we have generic sort of locations especially with skulls, but with long bones that are very early, we can guess that they came the Murray River somewhere, but we don't know anything else. So, we don't know what to do with them. Communities say "we don't want remains back if there is a chance that someone else's remains are mixed up with them".

I: Oh really? And are they very adamant about this?

MP: Yes very. And not just in that particular region but across Australia. Which is important and a real test of legitimacy, because if someone was making an ambit claim for political purposes, sure they will take what every you've got as it make us look powerful, whereas they are not looking at the remains they are looking at the political outcome, but they don't if there is a chance that somebody else's remains are in there, then it's not appropriate to be bringing back the whole lot.

I: So, with issues of re-burial are communities having to think of other ways to conduct ceremonies or are they using traditional burial ceremonies?

MP: Some just use conventional burial ceremonies, but others are very much distressed as there is no protocol for a re-burial. There were certainly mortuary rights that had secondary and tertiary burials which might be considered like an equivalent, such as gathering the bones and putting them into a repository but Indigenous people still get nervous, as many are now Christians, and do they have the right to re-bury non-Christian ancestors with a Christian burial. So, there is a lot of tension within the communities. They accept their responsibilities seriously, again they are arguing against the political bangery of politics actually of cultural and various social importance. And that's what reinforces, to me, that these people are sincere about having remains back. So, there are concerns, and what we find useful is to show people what other people have done, because once you have a precedent, that seems to be very liberating to know that there is a precedent, and that liberation is better, knowing that there are some nice little round holes in a cemetery, which they were given permission to do and put the remains in there. It's a cheap objective. Another group in Darwin, they have a proper cemetery which has a lift off lid with a grave, and the remains which were either scattered would go to that lift off plot. That took some negotiations because most Australians cemeteries won't let you have more than three

bodies in a grave. But because these are boxed and reduced in size it is possible. In Queensland, they have a keeping place built into a cemetery where the remains and other things are housed. They have both affiliate members of the community and Catholic church present, so they have traditional smoking, so a combination of religions. So, we are telling these people, "this is what this group have done, you are not compelled to rebury them if you don't want to.

I: Do some communities not want to at all? If they are so uneasy about the whole re-burial issue, would they just leave them within the museum as a repository

MP: Well they usually take them, and keep them somewhere else. We do hold remains at request, which is when communities don't have resources. So, we do have a number of remains we hold at request, but that is purely on the basis that property rights have been signed over to the community and they can come in at any time to collect.

I: So how long would the museum hold on to the remains, forever, for as long as requested?

MP: Yes.

I: Are they cared for in the museum or just left alone?

MP: Well both. We leave them in a box in a climate controlled store. The store is only accessible to certain people.

I: And are they separated from other objects?

MP: Yes. We have a human remains storage that is just for human remains, that is divided into two halves, one half is the store the other the work area. The store is locked and kept in the dark. Pest management to ensure there are no presented bugs. We test for chemical residue in the air, so no remains go back to people that may be at risk. We don't test the remains but we do test the environment.

I: Have there been any remains that have been at risk to harm a community?

MP: Marginally, and we have taken actions. Often, it's because molds have started to regrow especially on wet specimens or soft tissue. So mold can be a problem. We've tested for DDT, an insecticide which was used up until the 60s, used for preservation. Arsenic was also used to treat things; lead paint was used to make bones whiter. So, we tested for that and found traces for some, but not enough to be a risk, so that's

what we look out for. We've had mercury, we've had one set of remains where trailing over the jaw there was a lot of mercury pooling over the table, and it [mercury]was used in the past to examine the sinus capacity. It would be injected into the bone, near the sinus cavities to measure what wasn't there, 30ml of air space, that sometimes wasn't always cleared out. So immediate shut down, immediate testing again of the entire space was needed.

I: So, are Indigenous remains separate from other remains within the museum?

MP: The Indigenous remains are separate, we do have some non-indigenous remains, medical specimens that came from the Institute [of Anatomy] which are held in a different store.

I: Is that just for conservation or is it for a cultural purpose?

MP: Cultural, yes.

I: Was that at the request of someone or a community of did the museum decide to do that out of respect?

MP: It is an internal decision, made out of respect. Again, the treatment of non-indigenous remains is in accordance of out cultures values. They are kept separate and we work purely with the Indigenous remains. We do have Indigenous remains from overseas held in the same store, for the same reasons. To get into it there are a few levels of security, they've got to get into the building to begin with, then they have to get into the repository area, which are locked, then you have to get into the stores which again are locked. You can only get access to the keys for those areas through a thumb print. The facility is designed to have its fire alarms turned off so that we can do smoking ceremonies within the building, which is a huge concession for any institution to allow that to happen.

I: And do you get a lot of communities coming in to conduct smoking ceremonies?

MP: We did. Not so much now because we have a few problems with remains to return but they have been difficult to give back because of community issues, and we don't force people, we say "the remains are here when you want them". A lot of communities have other issues, regarding disputes about who should talk for the remains, but also other issues such as health and education. As someone said from the desert region "Why should be worry about the remains of someone who's been dead for 100 years when we have children dying today?" They are concerned but there are other issues which are of greater concern, on a list of 100 repatriation would be placed as a much lower priority. And I think that tends to be the conclusion for many institutions. So, we hold

them at request and it's on the basis that, even though we didn't collect them, the industry we are aligned with did, and we have to accept the generic responsibility for the actions of our predecessors, so it's a small curtesy and a small bit of recompense and compensation to hold remains of people.

I: Do you think that remains which do have very little to no known provenance are less likely to be repatriated from international institutions because of the fact they have no real provenance and no one able to claim them, therefore why should they be returned?

MP: Yes. Things vary over time and they vary between institutions. Of course, there is people saying that "we will return remains if you can prove direct biological connection, because we really care about them".

I: Really?

MP: Yes, around 2000, just about and during the British Working Group on human remains. This becomes a 'lips service' which is a funny way of saying that they want the remains to go back to the 'right' people and make sure they go back to the 'right' place because "we are really concerned, so we will determine if you can prove a biological connection to these remains, because we care". In reality, the chances of anyone doing that were very minimal, because strangely enough, people whose remains are in European collections, usually didn't have the chance to reproduce. They were taken away from their families, and at the time people weren't recording Aboriginal births, deaths and marriages, so it's simply very rare until the 20s to provide any reliable genealogy. So that was 'lip service'. And then unprovenanced remains couldn't go back because they might go back to the wrong community and we don't want to cause a problem. That has changed a bit, now they will return unprovenanced remains because they realise that as they are unprovenanced they are of little value for any sort of purpose. You can do DNA testing to find out relationships, but it always helps if you can find out where they have come from in the first place. Therefore, lack of provenance increases the cost of research exponentially, so some will return their unprovenanced remains much more easily that provenanced remains.

I: So, would they [museums] just contact the museum and say "we have these remains which are unproveananced but we want to send them back" is that how it works?

MP: No, generally in Australia it was generally Aboriginal agencies like the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander research action and the Aboriginal leader service that would go over and knock on people's doors saying "we need those remains and we want them back". The Australian Government had a minimal role. Then the Government took a stronger role, and now it's doing consultations with institutions overseas, through government channels.

3 Weeks ago, there was an announcement by the Australian and French Governments to collaborate on the return of remains. It is highly conditional as it's a press release, and a feel-good statement, but its highly conditional and if you read between the lines it's got lots of references to significant improvements, but that is still yet to be proven. So, the Australian Government has been doing at the moment. I or anybody in the museum, if we are ever overseas, will certainly promote repatriation but we are not officially the advocates. We officially can't go knocking on people's doors, but unofficially we can, and we do.

I: Do you ever get any museums contacting you saying that we do have these remains?

MP: Yes.

I: Should they go you the National Museum of Australia or should they go to the Government?

MP: We would refer them to the Government, and we would also refer them to the community, because there is no law in Australia that says that they have to go through the government. They can go directly to the community, and that has been very successful because nothing changes minds more than two people meeting each other and when it's not mediated through the bureau speak.

I: Have there been many museums who have done that in the past?

MP: [recording interrupted] There was a very strong connection between the holding institution and the communities which declared held provenance. Also. the Swedish government with the Kimberley Aboriginal law and culture centre, again government involvement as you can't throw that out altogether, but it was very much a face to face. Invariantly people come away enlightened on both sides, so that's what we are trying to encourage. We have no desire to have remains come through us, we've worked out a good system and now the system can go beyond us. In fact, all the products in this AIRC project is going to be a handbook, and one of the basic principles of this handbook is that "you can do it, you don't need us". Because we've gone through the hurdles, we know what legislation implies or doesn't imply.

I: So, for museums in the UK who have these remains and don't know who to go to and don't know the community the remains should to be returned to, in most cases remains will stay in the museum, as they are unsure who to contact which causes a big problem for the institution.

MP: What they also have to deal with, is that they don't have to be intimidated by the government saying that "you must deal through us", because you don't, you don't have to deal through the government. It can make life easier as they will take over, but if they want to deal with the community, they can ask any museum and invariably they will get there and if we'll say if we don't have the information we will put them onto someone who does. There aren't that many big museums in Australia, each state has their own state museum which handles repatriations. There are 7 organisations and as I say, we can't do it all, so we will pass them on to someone who can.

I: So, I might move onto the National Keeping Place. Have you heard much about it?

MP: Yes.

I: So, what is the intended purpose and function of the Keeping Place?

MP: So, it' still being defined. In 2003, we were engaged in a consultancy to, then Aboriginal and Torres Strait Islander commission, to find out what peoples feeling were about a National Keeping Place. So, I sent out a series of questionnaires and rang up quite a few people. Hundreds went out and dozens responded. I think part of that was because a lot of people didn't know, and haven't had to address this short of issue before. Not everyone in Australia has a repatriation issue. There were 2 sorts of responses: the rhetoric based response and then there was the informed response. Those people who had previous experience with repatriation were more likely to be open in their consideration of what could or couldn't happen. Those groups that had no experience in repatriation, were more likely to follow the lines of "all remains going back to communities".

I: Did you receive any responses where they didn't really care about the outcome?

MP: No, none.

MP: The outcome at the time was that people did want to see a keeping place, but the question was, would the Keeping Place be a memorial, where the remains were effectively entombed? Would it be a place where they would be processed, where work would continue? Would it just be for unprovenanced remains? Would people allow further scientific testing if it allowed for further provenancing to allow for their return? Now in the last few years There has been another committee brought forth and the results have been the same. It has been a question that keeps going up and down. There have been questionnaires where things say, "would you support a National Keeping Place? Where should it be?", and you get answers back were people suggest and I don't want to dismiss them, but that "there should be one in every community". Now that's not a National Keeping Place.

I: Is the term National not problematic for communities? Would it not suggest that it would encompass 'white' Australians as well?

MP: Yes. I think people get confused about the keeping place idea. Everyone wants a keeping place, but for some people a keeping place is quite simply a tin shed, with a big bolt on the door which is fine. For other people, a Keeping Place is a 3-million-dollar museum. There is a big discrepancy between the two which is likely due to the lack of information. So, I think the latest group [ACIR] have taken that into consideration. So, the push is continuing, and there is a lot of support out there. There is definitely support for a National Keeping Place, but one of the difficulties is where do you locate it? Because it will always be located on someone else's Country.

I: I read in the report from the ACIR's newest survey that Canberra was proposed as a location. However, communities were asking why Canberra, and people were saying that it's because of a lot of connections in Canberra, and it is the capital of Australia. Other communities were suggesting, "why not place it in Alice Springs or central Australia".

MP: Alice Springs would be harder, because of the strength of cultural connection. It is very difficult to put something on someone else's Country. I use to live in Alice Springs, I was the head of the Aboriginals Areas Protection Authority and one of my great achievements was the return of the rock from the top of Flynn's Grave. I'm not sure if you know the story of John Flynn? He basically took the radio to the outback, medical services, missionary services, and when he dies a big rock which was from the Devil's marbles which is up Tennant Creek, was brought down and put on his grave. We then arranged for it to go back on Devils Marbles, which is about four language barriers north. Then the locals replaced it with a local rock which is indistinguishable from the other one. So, they are happy, they respected the man, they didn't want to see his grave defaced. But what it meant was that for 50 years this rock was sitting on their Country and they were afraid of it, it was dangerous, it can from someone else's sacred site, the other group wanted it back and they wanted to give it back, even though they weren't responsible for it being there, it doesn't work like that in Aboriginal culture, the fact is that it was there and you are somehow responsible. So, it is that responsibility of having someone else's culture property on your land.

I: So, is that why having the remains of someone else's community on their land would be terrifying?

MP: It would build tensions yes.

MP: The Canberra push: part of it is because all the other big monuments are all here in Canberra. I think it's easier for the Government of course.as it's here and they could possibly use some existing facilities.

I: Do you think it would be affiliated with the museum or stand alone?

MP: I really don't know. We've [NMA] said that it shouldn't be. We've said in our submission that it needs to be under Indigenous control. If it's part of the museum it falls under our service or conduct and agreement and they are not always sympathetic to Aboriginal cultural values. It would effectively end up being ultimately an institution that is run or operations were influenced by 'white' consecutives. It's okay for an Indigenous organization to employ 'Whites' but then there's always that tension about repatriation, and I get it, "why is a 'white' guy in charge of Indigenous remains". But people are usually happy with my answer which is 1) I was the only person in Australia to apply for the job and 2) it doesn't empower me, I don't get a kick out of it, whereas any act of repatriation is an act of empowerment, it's a return of authority and you are acknowledging that this person is entitled to act of their significant cultural heritage. So, you are empowering people, but it doesn't empower me as a 'white' person, it empowers another Aboriginal person.

We have had episodes in the museum where other aboriginal employees have been asked by aboriginal people visiting the store if they would stay outside away from the sacred objects when they looked at them. Now that wasn't mean to be an insult, that's actually meant to be a compliment because they fit into that cultural value system, they can be empowered or harmed by the sacred power of the objects or by the spiritual power of them. Whereas I am totally expendable. So, this is an extension of the previous work I did as an anthropologist in the Northern Territory, where I was always being a third person, I had been called in to look at a burial which had been discovered, because the Aboriginal custodians were weary of approaching, but I could. Sacred objects, one in particular which had been stolen but we managed to recover. A huge thing, the size of a car tire, and the speech was, that "he's really dangerous, that kills people that one, so you keep it here in your office". So, I did, I kept it in my office as I couldn't be empowered and therefore couldn't be harmed. So being the 3rd person, the person on the outside can be beneficial in this job.

I: I read somewhere that there is a connection with regards to casts of human remains, and that the spirit fuses onto the cast and photographs as well, is that something Indigenous communities would want to have returned? As some museums within the UK display casts as a suitable substitute to the remains

MP: We treat casts as though they are human remains. Under our policy we treat them exactly the same way. Now you do get some issues where there are a lot of casts, of people who are alive. The Melbourne Museum has a great collection of those, but they consulted with the community for their use. We consult with everything. If we're constructing an exhibition we consult with the community if it's okay to use images. And that's just in our normal day to day business.

MP: We want to do an exhibition about repatriation.

I: Oh really?

MP: Somehow.

I: That would be great.

MP: Although it's a challenge. How do you talk about something that you can't show? When I was at the Melbourne Museum we tried it there and we displayed empty boxes with cushion donuts in them which we use to rest the skull, and so the implication was on what was not there was the object. You are looking at the invisible. I brought some Pheronology books dating back to the 17 or say 18th century so that we could discuss the history of collecting, and I recently just acquired a medal struck in honour [recording disrupted] an early collector and who correspondent with Banks. In order to show the paraphernalia around, we have lovely boxes of springs and gears and things removed from skulls, we have a large collection of biscuit tins and cigarette tins. People use to come back from overseas which human remains in biscuit tins and cigarette tins of the period and jars, so we show the accoutrements of the collection.

I: When was that exhibition done?

MP: We haven't done it yet, we're keen to do it.

I: So, would that he here [NMA] or in Melbourne?

MP: Still have no idea yet, it's just a twinkle in our eye. but ideally, we would like something that could travel overseas. It wouldn't be a big exhibition, it would have to be portable, it would have to be able to fit into the venues, particularly in venues which have human remains.

I: Perhaps especially in venues which in the past have repatriated. I think an exhibition like this is needed at museums internationally just aren't fully aware of the cultural significance of repatriation.

MP: It is frustrating for me to read some of the arguments that are coming out of Europe. To capture the opposite side, why won't they repatriate, they are really opposed to the polarisation: "you can't do that it's scientifically important" and "we want them all back", that middle ground is missing, there is little discussion between the opposing sides, so interesting things come out of it.

I: True, and there is a wealth of knowledge with regards to Aboriginal culture which is missing and not fully understood in the UK or Europe. It appears that they have no really ideas about Indigenous Australian people.

MP: Yes. I've just written a paper which I sent off yesterday to Museums and Society at Leicester on the issue of repatriation of secret/sacred objects, and I tried to strip it right back to its bare minimalist, it may even be too simplistic but the idea is, we are the same we might be fully aware of Indigenous Australian Material, but if we had Native American or Maori material we wouldn't know what to do with it. So even though we sincerely care for our collection, it doesn't mean that we have an in-depth knowledge of their cultural context or importance and it's the same for curators over in Europe. It doesn't mean that they have to be experts in all that they curate. One thing about being a curator is that you're a jack of all trades, you're expected to have a general knowledge across a wide area. So just to try and get in those little snippets so people can get in something into why they say it's culturally significant is important.

I: Absolutely. It is commendable.

I: With regards to human remains which are classified as cultural material, such as decorative skulls, I would assume you [NMA] would classify them as human remains? However, the UK categorises them as cultural material due to the definition constructed as a result of the cultural function of the object. Does the NMA have any definition like this which makes a distinction between human remains and cultural material like this?

MP: No, we would classify them as human remains. They are human remains to us foremost.

I: Even though they are decorative?

MP: Yes, they are still human remains. Again, repatriation doesn't mean reburial. You can repatriate human remains on the principle of repatriating human remains, and they could theoretically go back into cultural activities. That particularly applies for the supposed drinking cups from south Australia, which I have my very strong opinions of, and the decorative skulls from Torres Strait Island. The decorative skulls from the Torres Strait Island were used for purposes of divination, and some ancestral worship, there is no reason they could not come back and be used, they won't be but they could. That's the thing. Our [NMA] returns are unconditional, either human remains, culturally they belong to you, culturally and not necessarily biologically, there are attempts to do DNA testing of Torres strait Islander remains so that they can help the repatriation. The question is, do they belong to the people from which they were acquired or do they belong to the people who had cultural possession of them when they were collected? I think the latter because they are moving in a system that allows for that. So, they may have come from Papua New Guinea, but they are found

on Thursday Island, so therefore they belong to Thursday Island and Papua New Guinea's will accept that culture because they were all over the place. It is a matter of bringing them back into their cultural context rather than their biological context. They are well decorated but they are still human remains, and often the decorations are part of the extended mortuary rituals. The only end to a mortuary ritual is when the bones totally disappear. That is the be all and end all. With the British Museum saying the mortuary process have not been interrupted, well the cultural process had been.

I: The British Museum Policies do tend to contradict themselves.

MP: Oh, there's fantastic rhetoric, saying "we really care", there's many museums which say "we really care, which is why we're not returning them", "they are to be enjoyed by the world". But you can do that down here.

MP: I have this theory that the argument that "they are safer here, they would have been destroyed", which is the case for many objects in museums such as the Parthenon marbles, if they really believe that they should ship all their objects to somewhere that is geologically safe and environmentally safe, not threatened by any immediate military action, hasn't been threatened by military action in the past; one thing we know about Berlin and London is that we know that can be bombed. In which case, they should all be sent to a repository in Central Australia. If they are really sincere about the care of these collections for future generations, they will all send them. We would allow people to visit of course, at a moderate price. So, there is lots of rhetoric about Indigenous collections. I love it!

MP: That is the problem with traditions, museums have developed over the generations of staff, they have developed an internal culture and it's really hard to break it down.

MP: We're doing an exhibition with the British Museum that opens over there in I think April and then opens over here [NMA] in August. We are doing a variation, so that would be interesting to see what they address. I was part of that group.

I: I noticed there are only about 5-6 Australian Indigenous objects on display at the British Museum.

MP: I think I counted 7 when I was over there.

I: Which is such a shame as they likely have a very large collection in storage.

MP: They have, which is why it's interesting to look at the history of the collection in storage. Most of them were acquired following killing everyone on site, that is either directly states or implied by "we found their abandoned pants" says the policeman, or I took this from a site from a bone that says the pastor was from Queensland. Some have horrific stories. Some do have lovely stories: 2 guys in Albany in Western Australia, who the white governor asked if he could be buried next to his Aboriginal friend. It didn't happen but that was his last request. So, there are good stories and there are bad stories There are just middle of the road stories.

I: What do you do when there is someone saying that they have proof of purchase of remains, and that is their claim, but communities want it back?

MP: Well you have to determine if the sale was in accordance with cultural values.

I: So cultural values really take precedence?

MP: To a certain degree. Nothing beats Western property conventions. There is a moral issue, first of all with the nature of the exchange equal, if someone is pointing a gun to you or you are in fear of the 'white' fella in white socks and sandals the you give them what they want. There is always a person in any community, who will sell something that is not entirely up to sell, for money. So again, what are the circumstances of the acquisition. Even if it was all fair, is there a problem with it going back to the community, both the people involved in the initial transaction have died, the virtue and the circumstances of that transaction have collapsed, it's no longer on display in that person's lounge room as a fond memory of the other, it's fallen out of its subsequent use, so where morally would it belong?

I: Would you think the establishment of a safe keeping place within Europe of the UK for remains which have no provenance, before they are sent off to Australia of a community. Do you think that would be beneficial? Having a place within Europe for these remains to go, or should they just go straight back to Australia?

MP: Well I can give you a personal rather than institutional view point. I don't think it's a good idea as there are far too many organisations which look to wash their hands of the issue, and this would provide an opportunity. They would go into this repository then they would say "that's it we're done. We're out of here". Every time remains get moved, information is lost. Now information behind any remains within those institutions is likely to still be there in their records and archives, hidden deeply. So, the best thing is if they go through their records very very deeply or allow someone else to.

I: So, you think they should actually employ someone, or have a team deal with specifically finding the provenance of unprovenanced remains within their collections.

MP: Yes. They could employ someone, or just allow access. You find, even in Australia, there are people who get there and say "I've sent you everything" but they have not done the work. So, you simply open up, have access and research the collections. Which would perhaps be at no cost to them, maybe it would be the Australian government to employ local researchers or send a researcher over to do that sort of work. There are a lot of competent researchers that would be, which I'm not one. Okay I'm really good at repatriating remains to communities because of my background in working with communities, but there are people who are really good at archival research. In the same sense, remains may come back here [NMA] and they are from everywhere, come out of old doctor stools, they are found under the bed, and in the UK, that would be a particular threat, people would be dumping them at the doors of the repository. Without the supporting documentation, it would take years for the necessary communication. They would come out of the wood work, and even here in Australia, we have had episodes where Masonic ledgers were said to have ancestral remains, and when it was discovered they said "oops we didn't know" and handed all the remains in. so they have all behaved appropriately, but nonetheless they were hidden and no one know. Even the places didn't know, all they knew was that they had a skeleton, they didn't know if it was Aboriginal of non-Aboriginal. They just arrive. You run a risk of opening the flood gates if people are just getting rid of the responsibility.

I: When they are repatriated, do you ask for all the documents to be sent with the remains? Is the institution allowed to make copies or must everything be returned?

MP: No not at all, we don't want to have to look at them. People can keep them, it's part of their history. And you've got to keep that history as part of the institution for historical purposes, but also for transparency and governance.

I: Have you ever had any communities who have asked for all your documents and not let you keep anything relating to the remains?

MP: Yes, but we say sorry we can't do that. We restrict their [the documents] circulation, we do appreciate their concerns, and we will write a report for that community and people can access that report with the community's permission. But we as a government agency we have to have good record keeping, we have to have to show fairness and transparency in our actions to show who we are dealing with and why? It doesn't mean that it's going to be exposed, and we'll put up barriers and fill in a freedom of information requests to manage that information. International institutions need their documentations they need to demonstrate their process.

I: I think it was the repatriation that was conducted from the Manchester Museum, where the community asked for all the documentation to be returned, and the museum was not pressed only keeping a few documents with the majority returned with the remains.

MP: I think it's just one of those compromises.

MP: Other things about the establishment of a Keeping place in Australia: it has its management issues. I have written that every step of return is a success. So even if remains are unprovenanced, the fact that they come back to Australia is a successful repatriation. They will become increasingly under Indigenous control, the Indigenous management of those remains, even if the Indigenous people are or aren't culturally affiliated with the remains, we don't know, but say some local communtiy member gets the job as Director of the institution, and they manage remains that are coming in from all over the world and from all over Australia, so technically they are supervising remains from the Northern Territory, but it doesn't matter because we don't know if they are from the Northern Territory, they are still under Indigenous control.

I: So, that is the key element, and where they should be?

MP: Yes. So, it's a success, it's not a failure because we can't find where they are originally from, when they come back to Australia that is a success which should be enjoyed from not only from a community but also the repatriating institution. The hopefully, over time, they will go back to a state or territory. Then hopefully, over time, they will go back to a region and then back to a community. So, things are only going to improve and a lot of remains are being returned and it's only in the year subsequent to their return that research has revealed where they should go back to. So that is never going to stop. People should not say "they are gone, problem finished".

I: Personally I think the UK is, at times, a bit like that, they send something off and then wipe their hands of it trusting that Australian Institutions will sort it out.

MP: Because the stories themselves are far more interesting that the remains. If they really want something they can sell to the public, then contribute to the world knowledge. It's the story of their collection that is interesting, who the collector was. Some of them are horrific, the history of William Ramsay Smith could be made into a movie

MP: There's a lot to be done with a National Keeping place where they have unprovenanced remains, will it take provenanced remains from overseas, doing what the museum use to do in that they come in here[NMA] and then they go out. I think that's good, it would be an active place rather than just a passive place, or just a store, or is it a place to continue the investigation into the remains' provenance.

I: Do you know who would be funding such a place?

MP: It would be the Australian Government.

MP: So, each one brings up levels of scale, one is a nice building which new facilities that reinforces respect, one is an active participating organization that looks are repatriating remains.

I: So, would it be one or the other of could it be both?

MP: I could be both. I think it's a strange analogy I suppose. The 9/11 memorial museum incorporates a repository from the coroner's office. It's built on the same site, co-located and one is a theatre to the other, but they are still different organisations as they are a different piece of property. One is treated with respect and on the other side of the wall the other is an active attempt to reunify and identify the remains of the victims.

I: Do you know if the Australian Government have taken into consideration what the New Zealand government have done with their Maori remains and their National Keeping Place?

MP: I'm pretty sure they would have. Just in the nature with close engagement with them. I haven't read the report, but just with our close engagement with New Zealand, we've worked with them with a lot of repatriations over the years and we are still doing it through the AIRC projects with the museums, with Te Papa as a partner. So, there are always options and I'm sure they [considerations] were involved.

I: In America the Native Americans run their own safe keeping place in order to gain back that control, so perhaps that is something Australia should be doing as well for Indigenous communities?

MP: Yes. I think that again is what makes it more of a success, in that it has to be under Indigenous law.

I: And is that something you think the Australian Government would be oaky with?

MP: Yes. Well you can have both, we have various organisations such as the institute of Aboriginal and Torres Strait Islander studies for example, which could take on the role it just needs the use of facilities. The expertise is around but it doesn't mean the organization can't draw upon other expertise, it just means that management control governance is under the control of an Indigenous board. We have an indigenous advisory in our museum, so we work with them through things that we are presenting, we tell them what we are doing.

I: Do most museums in Australia what that [an advisory board]?

MP: Pretty much. They will have an advisory group of some sort, but it doesn't mean that they [the advisory group] can tell us what to do, but they can discreetly recommend that we do something.

I: Have there been any clashes on interest when if come to representing something or an object?

MP: The British Museum bark down in Museum Victoria. Not here, were have been okay.

I: So, if you are removing all these remains, and casts of remains from display, how else would you display these remains without having the remains on display. What else would you use? I know you mentioned this briefly before.

MP: Well it depends what you're trying to represent. We are a social history museum, not a natural history museum, so we don't display the anatomy. Some ethnographic museums want to display practice such as skull deformation or tooth induction. You can do that with photographs of a living person. The main thing is you get community approval. There are many ways in displaying human remains, providing that the community supports it, and take the risk that someone from another community would come in and say "I don't like these human remains".

I saw this in South Australia. There they have a Pacific gallery which is full of skulls. We don't like them, we think that if you are going to have a philosophy that says it's inappropriate to display Australian Indigenous human remains, then it's going to be inappropriate to display any indigenous human remains from anywhere in the world. It's either a universal philosophy or it isn't.

I: As I know the Pitt Rivers Museum in the UK have Shrunken heads which were on display, a few still remains but they are intentionally trying to remove them, however a lot of the public go to the museum to see the shrunken heads. So that is a big issue when the public want to see the remains but the museum is taking into account the ethical and cultural beliefs and wishes. So how would you deal with that?

MP: Well you have to ask, what is the public getting out of it? Sensationalism will always attract people but is that worthy? Communicating to the public "what do you think, public, should we display them or not?"

I: Have you encountered many people within the public at the museum who really don't want remains to be repatriated and leave the museum?

MP: There is always someone, even in the museum community and there are some people out there playing some dirty tricks within museums. With tricky wording saying that they are doing this to aid repatriation when in reality they are doing it to carry out their own DNA analysis. There are some dirty tricks out there. Biological anthropologists aren't always happy because it's their 'bread and butter', but they won't say it publicly. But the general public are usually pretty reception, because they understand the value.

MP: However, again nothing overrides a community approval, if the community says we can do it then that's very generous of them. But you only know if you ask.

I: Have you had any communities give you permission to put remains on display?

MP: We haven't asked as it's never been necessary. We can refer to remains of Lake Mungo but we don't have to show the remains of Lake Mungo. There is usually an associated object which is far more interesting. Pieces up in our gallery or that piece of Ochre out here in the hall which are far more culturally significant than skeletons, because yes there are skeletons, people died 30-40,000 years ago, we know that. What we don't know is that people did art, so that piece of Ochre suddenly, not because people did art, but because you don't do art unless you've got an intellectual dimension to it. So that one piece of brown rock is far more significant about Australia's Indigenous culture, rather than Australia's Indigenous biology.

I: They [museums] do need to find an alternative way of representing Indigenous human remains within using them

MP: That's what the challenge is. If you are going to do it the same way all the time, where is the fun in that?

I: Well I think that is everything

MP: Okay. Well I can be emailed or contacted at any time if you have any more questions.

I: Great. Well if I have any more questions I am in desperate need of an answer for I will send it on through to you.

MP: Great.

I: Thank you so much for talking with me. I really appreciate it.

MP: Also, when you think about a Keeping Place in Canberra, if it becomes a memorial, have a look at some of the other buildings, their style. Think about what it would be? A memorial that is a static place and emphatic. Or would the memorial become a facility for the repatriation of remains?

I: I shall have a think about that.

MP: Just something to consider.

I: Thank you.

END TRANSCRIPT

Appendix 11:

Lindy Allen

Interview, Melbourne Museum, Melbourne, 10 December 2014

BEGIN TRANSCRIPT

LA: Lindy Allen **I:** Interviewer

I: For how long has the Melbourne Museums been repatriating Australian Indigenous human remains?

LA: Since at least the early 1980's, and with most museums I don't know if you've been told this but there has been a very big workshop conference in Adelaide about preserving Indigenous cultures. It was a UNESCO sponsored conference and there is a whole volume that goes with that by bob Edwards and someone else, whose reference I can send you. I that that was a conference where a lot of indigenous communities confronted museums and said that everything has got to change. The time have come. So, I think that was is Feb or March 1978 for essentially a whole new order sort of rolled out and this museum was one that embraced those changes immediately so within a year or so the museum appointed indigenous trainees, and started to really embrace the whole idea of Indigenous involvement with collections. Here [Melbourne museum] was a particular place that really took that seriously and has ever since, and of course what flowed from that has been embracing the right of the Aboriginal people in their material, particularly restricted material and ancestral remains. There is a text written by Faulkhead and berg about repatriation and in that they talk about the Victorian Aboriginal legal services taking Melbourne university to court over the Murray Black collection that was them placed here under a court order in the early 80's and then this museum took on the responsibility on repatriating these remains. If you look at this hand out, you'll find 800 sets of remains, that's quite a lot that's from the Murray black collection, that was never parts of their historic collection, based on the court order. So, we because the body to undertake all the repatriation on behalf of the Victorian Aboriginal community, so it's around 800 it's a little more, we don't have the exact figures, but at the same time the museum also established a relics advisory committee and some of this is in various volumes, you'll find that on the history of the museums, and that I believe was established in 1981/82 and it advised our board on policies or procedures or whatever. At the same time, a

set of 35 individuals were selected to represent 35 recognised tribes of Victoria at that time, and they were buried in various domains, it was a symbolic burial to signify, that this was serious and this is what people were going to do, in a park or gardens, and that is talked about in the book. Some of the history is skewed, specifically from Jim Bergs position, with some are a little bit of license, but this museum was at the forefront of doing all of that. So, in 1984 I believe was when the reburial demand happened, so that was a symbolic handover to the Victoria abo community, but ever since that time, we have returned almost 11,00 sets of remains to Victoria, to the WA, 21 to Tasmania, 84 to South Australia, 3 to Queensland, 22 to Northern Territory, 239 to New South Wales, 800 of the Murray black collection to Victoria and New South Wales along the Murray river so that's why it's that shared country, and then 10 to New Zealand. We have repatriated over 2,272 sets of remains in the 30-year period from 1984-2014. So that's is quite a number.

I: Where there any issues with reburial, where communities weren't quite sure what they were mean to do, did they just use traditional burial ceremonies?

LA: That is a very big question. We hand over remains unconditionally, so we have no say and we are often not privy of what happens, we are often not there as it's not our business unless we are invited to be there.

I: Have there been many cases where they say no thank you, you can't be there?

LA: Absolutely it's more often than not that we aren't invited. Institutionally we will hear anecdotally about what happened, what we've got better at now though is providing support for communities. We are now funded as all museums now by the commonwealth to provide community support for the remains to be returned home, as well as secret/sacred material, to be repatriated. So, we have and we have always funded that in different ways anyway even when we didn't get commonwealth funding, but we have always been cognizant of the lack of resources in communities so we always provide financial support for people and martial support for people to come and prepare remains for reburial. And I think everybody has gotten, I'm not saying better at it, but it has certainly evolved over time to the point where there are some very experienced elders who provide that support, for are like uncle Collin walker, her has travelled all along the Murray all along New South Wales and Victoria and is more than happy at any time to assist any community to help them with how to rebury remains. Essentially, it's not our [Melbourne museum] business, but having said that we are privy to what happens, and in fact in 2012 I took over organizing the reburial of unprovenanced remains, but unprovenanced just to Victoria, we know they were from Victoria but we didn't know where in Victoria. We actually buried over 130 set of individuals of unprovenanced remains, it took 7 years of negotiation with the aboriginal community to decide what we should do to ensure we had exhausted all possibilities of how to provenanced them. From archival research to biometrics analysis, the works. So, every avenue of that had to be exhausted. We also have an aboriginal cultural heritage advisory committee that advise our board on repatriation and that has members from around Victoria and they were very much part of that dialogue. It was actually lead by the chair of that committee who sits on the museum

board, with our director of collections or research and exhibitions, there were over in China and said what are we going to do about this we need to find a solution. It took 7 years. We sent letters to about 1400 traditional owners with a series of questions: should we do this? How should we do it? Because there was no one individual to have that responsibility, we wanted it to be a shares responsibility but the museum took the steps to have those individuals reburied on behave of the Victorian aboriginal community. It clearly had to be in a place where they wouldn't be re-dug up. That was a place which had good access for anyone in Victoria who could visit there, a place where people knew, which ended up being a place called Weeroona, a cemetery within a park out near the airport, and that has been a place that's been in existence since about the 70s as well. When people in Victoria started to take responsibility for burying aboriginal people through the Aborigines advancement lake, they have their own undertaker, they have their own hearses. We actually have a hearse in the collection which they didn't want when they were buying a new hearse, as they didn't want it to be used as a used car for someone to be driving around. So, we purchased that from the Aboriginal Advancement Lake. So, we worked very close with their undertaker as they work very close with their reburials at Weeroona, which any Victorian Aboriginal person who if they choose to can be buried out there.

I: From any community?

LA: From any community within Victoria, and then anyone who dies in a hospital here [Victoria] or without family and they may be from elsewhere in Australia they can be buried there too. So, it's a resting place for anybody across the nation, who dies in Victoria or Melbourne, so that they are not put in a pauper's grave or unmarked grave that no one visit. So, it was then chosen as a site. Not everyone in Victoria agreed within it, and they still don't agree with it. But we have an Elders committee who included members of our aboriginal advisory committee but also key members like uncle Collin Walker, uncle Ivan Cousins and uncle Albert Mullett, who died recently. They were also on that board. So that men who had taken leadership in the community from different part of the state, we wanted broad state representation, and we also had the chair of the Weeroona aboriginal cemetery trust, so she was on it. So together we organised this reburial. That is the only time the museum has done it, and I got permission from the Commonwealth for us to expand funds from our grant, because our grant conditions are that we give money to the community. In this instance, the cemetery didn't have the capacity to facilitate that, they are just a small group of volunteers, so we worked very closely with this elders committee with the reburial of thee unprovenanced remains, and it is a very good model. It has now established a very good model that can give some framework for other communities to think about.

I: Do you know if anyone else in other places such as New South Wales have done anything like this?

LA: No one has done it. So, it was about working close with a community in appropriating that. It was interesting to see how far everybody had come, and we've also moved into that whole zone of understanding that this is a very and highly emotive. We have Jeremy Thomas at the moment who is our senior project officer for community

engagement and I talk about him in that paper. Jamie comes from a health background her comes from the Gunai-Kurnai and Peek Wurrung man from Gippsland and also has connections to people from the Western district from his grandmother, so Jeremy has family connections. He's in his early 40s so he's a sort of mature man, but he comes from a health and wellbeing frame work, he's worked a lot in heal as well as cultural heritage but particularly in heal, So he's really enhanced that area, so we are much more aware of how much this is a healing process or absolutely including, not new but often waited for the community to say without pushing the boundaries, as it is the communities business to understand what the community needs, but with Jeremy he's able to be more upfront and say "we everyone to be safe and happy, and for this to be goods for a funeral", and that it's all about caring and understanding that whole framework. Or we've been able to become more engage within that space. So, in terms of how it has changed over the time, I'm sure the comparison with what happened in 1984 and what we did in 2012 could very much reflect that, and I'm sure people in the community that were involved could reflect this, and it would be interesting to ask them how this has changed.

I: It has definitely shifted, especially for remains which have no provenance, as a lot of repatriations happen for remains that are provenanced as it was fairly easy for that to be established, but for unprovenanced remains what do you do? It appears that some museums tent to keep them because they just don't know what to do with them, especially in the UK, or who to approach and no one is approaching them, so they do tend to just keep them.

I: Is there also an issue with community members who perhaps don't want them buried and just want to leave then where they are in museums?

LA: No. It's difficult. We still hold a number of remains that are deaccession, which means that someone has claimed them and they are waiting collection. We still have 182, we still have 262 in train now to be deaccessioned but they may not go out the door tomorrow, because it's about the capacity for communities to identify a safe place, to organize what they are going to do. We have one that is about to go to our board next week for 80 sets of remains. But what we are doing now with Jamie and the space we are working with is that we are now probably being a little more pushing now. We are saying "don't wait until you get the remains back to start to think ok where are we going to bury these things". The museum process is very straight forward but finding somewhere safe where you are not having to negotiate a safe place within a cemetery or parks. So, we have tried to broker with aboriginal office of aboriginal affairs park in particular. For agencies that are involved in this to assist communities to find safe and secure places for reburial. So, remains will only stay here because people aren't sure of a place to rebury them, or they don't have confidence with the security around the site. So that will be the only reason they will stay here.

I: So, there are no real issues with regards to the actual process of reburial, they just do it and get on with it?

LA: Yes, they do

I: Do you get lots of remains that are unprovenanced from international institutions.?

LA: We don't as that is not our role, that is the role of the NMA. But when remains have gone directly to a community, so the commonwealth has identified the community, then they will come here, but it's only for communities within Victoria. But if they aren't ready, they bring them here for safe keeping. So, we will provide a place for safe keeping, other than very minimal inventory and management of them, we are just holding them for safe keeping, they are not accessioned into the collection.

I: Are the remains separated from the other remains within your custody?

LA: They are stored within the ancestral remains store

I: Do you hold onto them for as long as the community wants?

LA: Yes.

I: Are there any issues with community members forgetting about these remains.

LA: Aboriginal communities don't forget, but they do deal with so many other issues that it gets put on the back burner. however particularly with Jamie's position we are able to keep a bit of pressure on and remind communities, but it really has to be the right time for them. I think in the past we have stepped back and not known why communities don't have the capacity to collection their remains and rebury them. As I say it is unconditional and it is none of our business, but you can't stand off too much as well, and with Jamie now we get a better understanding on what's happening and if there is some way we can help with that, can we help put pressure on a certain agency? Can we offer a solution? For instance, Jamie's latest thinking, and his smart thinking in that space is to suggest that many people want to return remains to as close as possible to where the remains were taken, and he has been involved in this before he came. He's been saying to communities involved that you need to think about those circumstances that were as well. It might have been that someone just died at that spot so people could have just buried them there, they could have been from another Country, and I mean Country in what we understand in Australia. So therefore, don't get too caught up in the exact location. Of course, it's a different matter in Lack Victoria where there were formal cemeteries and there is a good reason to maintain or manage and such which of course people in those regions do, in probably the middle Murray. Jamie is just trying to flag in people not to get caught up in it, for instance one community in Victoria are in this group of deaccession, they claimed possibly 14 remains, they have collected 4 because they had a site within a park and

they work with Parks to rebury those remains at that site and to have it protected. It was very much about working with Parks to have that happen and that community had a good relationship in existence with Parks so they could do that. But now all the other places, if not all most of them which the other remains come from are now places like farms, so you have to negotiate with the land owner.

I: Can that be quite difficult?

LA: It can be, and you also can't predict in the future what is going to happen, as it is such a hard life in Australian working off the land, that it is the likelihood that some of these farming families, may not be there. So, Jamie is saying to communities to think about what will happen 20, 50 100 years window, what decisions you're making is about that. Parks are very likely going to be there for that long, as they have already been here for 100 years in Victoria. So, he is very much solution focused he said that perhaps that it is worth thinking about that one secured site and having plaques at each specific site. So, then it becomes about public awareness, so you are in the space of talking and raising awareness that at this site were buried the remains of 4 of our ancestors or whatever the story is, so please respect thin. We haven't come up with any sort of wording yet. This community is still holding fast, they are saying they still have to have the remains buried. Like I said Jamie's solutions are trying to empower communities to say "think very clearly and broadly about the long-term context" and to perhaps think about this one place context, to select one place like a park that is protected, not marked but the people who need to know known where it is or it's fenced off so no one goes in there or cattle goes in there. So, we will see where that progresses. But that may become a solution for many of these communities who are having difficulty thinking about if to put remains back where they came from. As Jamie said they might have been passing through country, its where people camped and the community was much broader, so don't get caught up too much about the place but perhaps mark it.

I: That is a very good idea, especially for other state museums and indigenous agencies to consider.

LA: So, it's about a community member understanding how communities are thinking and then try and find some solution that is still possible, that strategically able to be done within the area. So, what they [communities] are saying here is that because there is no secure tenure in places, so therefore let's find some solution to cross that. Of course, that is not always the case for all the remains but for this specific community, it is something Jamie has considered in depth and came up with this suggestion.

I: So, when communities come to collect remains, do they consider they need to find different places for all the remains or just one site.

LA: There are different solutions for different places. Yorta Yorta have a specifically designated place, we've never been privy to any of those burials as they have wanted

to keep that site confidential, which is probably one of the main reasons we aren't involved, because the more people who know it gets out. There was a big reburial [recording disrupted] is the western district, there was a return of remains from here a number of years ago of over 100 sets of remains, and they were buried at the cemetery that was formally a missionary reserve and then it became a trust in the 1960s, so again there is security of tenure over that site. The 80 remains that are due to be approved next week at our board, the solution for that is that under the current Victorian legislation we have registered aboriginal parties and they can bare variously Native title claimants, succession title claimants as well as traditional owners who perhaps don't have that security. It is a framework that has been established under the Act to give security and recognition to traditional owners, so these registered aboriginal parties have the capacity and legislative responsibility for cultural management which includes the repatriation of remains. This one community within, not quite the north west but heading that way, they have identified one site around which security of tenure has come about an indigenous land use agreement which emerges out the Native title in Australia, so then there are places that can be returned under native title and it has been recognized in the courts. So that will then become a place where you can presume security often for them for the next 100 years. So, they recognize where all these other ones come from but they have selected one site. So, people will have their own solutions. A community in Gippsland, they are thinking about perhaps using an old mission cemetery, but perhaps in the past we have returned remains to them that they have put back in situ because that was secure. So, it's different solutions in every case.

I: Have you ever had to return remains to another institution? As perhaps it need to go to New South Wales and then a community there?

LA: Generally, we go straight to the community bit we work collaboratively with other state institutions. For instance, the Western Australia remains, our colleague Ross Chadwood at the Western Australia Museum offered to take carriage of those for us, which was very sensible. Most people in museums are trying to work collaboratively, Ross has managed to return 2-3 remains, and they are still holding another 4 and 2-3 of those are still pending, and he is working with communities to determine if they are the rightful owners for that. We still do the formal deaccessioning and will still need the formal letter from the community, but Ross have been brokering those discussions for us. In New South Wales, because there are often lots of relatives between New South Wales and Vitoria in communities which run along the Murray river, most of these remains have been returned to New South Wales to this point in time, as they were the same family but located across the border, and so have done those negotiations with them [New South Wales]. But we had one set of remains, which an honours student at Monash uni last year did her thesis about, and actually found security of provenance information for us, and so we asked Phil Gordon at the Australian Museum, to advise us on the lay of the land and they have local Aboriginal land councils. Each state has different structure. This year though, or last year we were approached by the office of heritage and environment in New South Wales who also have responsibility, their offices and agencies across New South Wales have responsibility now for repatriation, so we are working with them. So, in fact the remains which are going up next week, include the large 80 sets of remains, but we also have 3 New South Wales claims, which came through the Office of Environment and Heritage. So, they have been brokering it for use, identifying the rightful owners.

It is silly to think that we can do it all, sometime we have particular contacts, either through my networks or colleagues from other museums.

I: So, for remains that don't have provenance, would they then go straight to the institution in New South Wales?

LA: No, no one has done that yet, as we haven't got to that yet.

I: Is there a reason for that?

LA: I think priority has been given to ones where there is absolute known provenance and we are all still working through that. We are down to 51 of the remains that were originally are from the museum collection, with various changes in legislation and the Murray black collection, and the other big collection from the Melbourne uni, the Berry collection, then the freemason's collections that was surrendered as well. We are not the official repository under the Act but we are the preferred repository as there is no other. So, they come here anyway. In fact, it looks larger than it is, 262 is actually what we have, that includes a number that were provenanced using biometric analysis. But communities aren't willing to accept that, so we are probably going to end up with another core of about over100 of these.

I: Why do they [communities] not accept it?

LA: Because they are not sure of the signs, and the probability is not high enough for them, so they don't want to take responsibility for remains when they are not absolutely sure if they are really from their Country.

I: So, would they then just be classified as unprovenanced?

LA: So, the 100 or it may even be 120 remains may end up here, as a plausible solution. We would have within South Australia some, I think for Queensland, Northern Territory, New South Wales there may not be any provenanced remains from there, we only have known places. But we do have 730 unprovenanced, they are Australian but we don't know where.

I: Do you think that in the UK or internationally museums are less likely to repatriate remains which are unprovenanced but known to originate from Australia?

LA: Well there is no one to claim them.

I: That's true, institutions in the UK work on a claiming system.

LA: The commonwealth is working to find a solution for that though. They have a website that talks about this project for unprovenanced remains.

I: Yes, I've had a look at their website detailing the ACIR's report on the establishment of a National Keeping Place.

LA: That's as much as you need to know about it. That's a proposed solution.

I: Yes, the National Keeping Place report and survey is actually what I'm focusing on, and whether it is actually needed, it's function and purpose, or if there should be keeping places within different states. From the report is was evident that some communities wanted the Keeping place to be in Canberra but there were others who wanted it in central Australia.

LA: Yes, there were lots of debate around this. There was a suggestion that they also just be again some sort of memorial in Canberra, with the parliamentary triangle. I have my own opinions about it, but we are in support of the Commonwealth and it is a solution, which is better than not having one.

I: So, would that mean that unprovenanced remains, which are generally provenanced to Victoria, would they then go to the National Keeping Place?

LA: Well no, these remains aren't technically unprovenanced as they are provenanced to Victoria.

I: So that is enough information to ensure that they are buried within the state?

LA: Yes. In fact, most of these if not all of these are very tiny bones, so you actually can't establish whether they are one person or 2 or belong to 5. Whether they are male, female, child or adult. Some of them may even be tiny throat bones. So even though the number may be high the volume is not. To be honest, it's a solution, or an interim solution. I don't know what other museum have, but I know that most of ours are miniscule bones, and we have had people like Colin Pardoe do provenancing work, so any other remains, like cranial or post cranial remains that do exhibit other elements, he has been able to provenance as well. So, that will probably be the unprovenanced New South Wales remains we have, if people in New South Wales aren't willing to take on board what Colin has pin pointed they might say "okay they are unprovenanced to New South Wales" but if they had a solution we would be happy to give them over.

I: If they said no they don't have any solution then would you give them over to the National Keeping place?

LA: Yes. And the fact is that the lack of a claimant is not really the issues. Jamie, Rob and I and the museum we think in that same vein. There is no point saying that no one will ever claim these remains so let's have a talk about them, because that is nonsense.

I: In the UK that is what appears to be happening through examining their policies. UK museums are of a standing where if no one is going to claim them we are just going to keep them and we will do provenancing.

LA: Why!

LA: The thing is how hard are they working to find the documentation, so in actual fact they don't really know if they are fully unprovenanced.

I: It seems that perhaps within UK museums they need someone or an Australian presence that is there doing the research on the Australian Indigenous collections, to investigate into if these remains really are unprovenanced.

LA: We have a framework. We get physical anthropologists in to clarify for us if remains are or aren't and we have them individuated, so people know exactly how many individuals there are. This is something probably more recent change in the museum. In the past, we would have packed up bones together knowing that they were all from a particular place and put them in storage according to their registration numbers. We've found that it isn't respectful. With the work that has been done physical anthropologists can have a good go to individuate remains. From the 120 that we reburied at Weeroona, we identified which ones were children, who were men, women and then we had a whole group were there weren't enough bones to assign a gender or age or any pathologies. People are interested in pathologies as well, so what we do is we disclose as much information as possible form archival research and from what physical anthropology can tell as well. So, it's incumbent on all institutions to gather all the archival records and documentations and be exhausted with that. People in Australia have been doing this for 30 years, so there is no reason for anyone else not to. So, then you apply physical anthropologist's science to it and you individuate and you assign, sex age and pathology and then provenance if you can. It is up to the Australian communities to then decide, like in Victoria. Not all communities do, but one community have as they felt it was more important for that person to be reburied than to have them still in the museum. That is part of Jamie's point to in working with communities, and his thinking around an established common place if it is one community, as he says the remains have all been in the museum together too. It's also about thinking of remains as people.

We didn't have to wait for legislation to start looking at archives. It was the 78 conference that really put museums on notice, and almost every museum did that in different ways, and 30 years down the track we are much further on but still not there.

I: Do you use New Zealand as a model for any framework?

LA: No. That is why with the remains that went to New Zealand we did hand over the remains to Te Papa because they have a good system, and we have to respect what our colleagues are doing in other places, as we have to recognize that there are customary practices in other parts of the world and we do not seek to apply those, particularly the Australian context to those sets of remains. Our authority in those areas, our first point of call would be the NMA, so in this instance our first point of call was Te Papa, they took carriage of those remains, we actually did in that instance did deaccession the remains to Te Papa so they become part of their collection, but they do have an active programme. In Papua New Guinea, we might or might not do that as they have very little capacity in infrastructure, but we would work through, and we have done that recently with an object that is going on exhibition at the National Gallery Australia in Canberra next year, that has human remains as part of the object, and we sought the opinion of the director of the Papua New Guinea Museum Andrew Moutu and he happens to be a Sepik man and it happens to be a Sepik piece, so he could also give up that double layered insight and advice on what to do. One curator in Australia who has been working on our Pacific collections was totally offended by that, as he felt that this museum shouldn't be and that he was the authority and he knows and it was a very interesting exercise and an ongoing issue.

I: Would you classify an object which has human remains as human remains or something else?

LA: No, we have two classifications: human remains modified and human remains unmodified. So, our energy and priority got to unmodified in the first instance. But over the last 18 months to 2 years rob and I have done a huge audit of object classified as modified. It is also about proportion, for instance a basket which has a child's bones in it that would be classified as human remains.

I: What about something such as decorative skulls?

LA: For Papua New Guinea we would seek their advice generally the advice to date has been that in Papua New Guinea see sought advice. For Australia, we hold some painted skulls and there's varying opinion from Arhnam land about those. Our board got a delegation down in 1984 to advise us about those. So, in the early 80s a lot was happening, and the advice at that time was that they should stay here [in the museum], and that the man who collected them would never have gotten out of Ahrnam land if he hadn't been given them in the correct way. They're really at the end of the whole burial practice, as the soul has gone to rest. So, we also have to be careful in not applying certain sensitivities in certain parts of Australia to other people's material

too, but at the same time I know of painted skulls that have been returned. One from the Smithsonian was returned to Arhnam land, some missionary's son took one to a community I worked with in Arhnam land, I'm not quite sure what has happened. I recently brokered some discussions with a community that I worked with on behalf of the Tasmanian museum and art gallery in regards to a skull that was collected during the war. There was good documentation to identify which family it belonged to, to have discussions, and left the information there for the family, I'm not sure if they followed up with the Tasmanian museums and gallery, but again I'm happy to broker that. The Queensland museum declined that offer, they have a painted skull from this one communities I have a project going with at the moment. They declined for me to take the information, which was fine as I'm not doing it on their behalf but I'm there and the offer is there. Also, in August 2014 after 3 years of negotiations I've been doing with a family I know well in Arhnam land, I returned what would really be the modified remains of this man who was named, so we knew who he was. This emerged out of the audit Rob and I did. It was from a collection where we had the genealogy associated with that man, we have a good documentation of the history of where it was collected. I took all that information to Arhnam land and had a big meeting with about 35 family members, where I disclosed all the information to everybody so that the circumstances of collection were clear and allowed them to make the decision if they would have his remains returned. It was actually a bark coffin, so the remains were inside a bark coffin that was painted. So that within our classification meant the remains were modified, then this man's death had been avenged by some other people, so his finger bone had been removed and was put into this thing called a *Mudjabala* which is then used in this circumstance of avenging that death. The *Mudjabala* went to that collector, then somebody would have been carrying around that skull in a basket, probably a woman which is what often happens. So, over a period of a few moths this collector was given the 3 components, each of which have a separate registration number but we returned all of the man's remains to the family. So, we are also working in that space but at the moment the priority is the unmodified remains.

I: When it comes to cast of human remains, do they pose an issue?

LA: Yes, they are. Tasmania, we returned a cast as well, and we have recently had an enquiry from TMAG, but we are doing a little more investigation with regards to Triganini's skull, they wanted to know what we had and wanted information of any historical context we might have. I think we might still have on which we have disclosed, but there is probably many of those around the world. So yes, they are considered.

LA: We also have now extrapolated that sensitivity around casts of actual bones, to casts that we have of figures, that were cast from a living person.

I: Is that then okay if it is a cast that was from a living person?

LA: Well we don't know. So, there are a number of these that were produced, probably in the 50's, where there were a lot of dioramas, and through our documentation and a project we did a number of years ago to investigate that. So, one it emerged sensitivity around casts of unmodified remains, we said "ok we have these figures that are cast from life and we know who these people were". Then various casts that were made by our museum and then sold on to another museum, we had to let those other museums know, and ask "do you still have these and, where are they?" But we have yet to have the conversation with the community members who are descendants of the man that these were cast from, to find out what they think. But that will probably be something that we do over the next 2 years. Because we are so far down in returning remains that we can now start to actively pursue those other issues that have emerged over time. But in fact, we have a number of busts that were done by Charles Summers for the 1888 exposition whilst here and they were cast from life from people from an aboriginal station in the hills near Hillsville. Certainly, wherever they are loaned, reproduced or whatever we seek permission from descendants from those people. So, we do consider and we are careful for whenever we exhibit them we have a conversation with the family about the context to make sure people are happy with that.

I: Do they [communities] play quite a big role when it comes to the interpretation of an exhibition?

LA: Firsts people [exhibition] is all about that. It was co-curated with Aboriginal communities. The set up this large group who were these key elders and younger people and then engaged with other people outside of the group. So absolute co-curation.

LA: For us, we don't always know if the people know how to ask us. This year we developed a webpage, the NMA has a very good webpage which we looked at but we have a slightly different approach, which clearly details who to contact, it has Jamie's details, what his role is so at least they are provided with a level of comfort in talking to another Aboriginal person.

I: Do you find that communities won't approach non-aboriginal people?

LA: That's one of the big battles Jamie has been looking at. There is all this miss information about the museum. So, he is saying the remains are fine in there, the processed are there and that it isn't the museum holding them back, so get in there and get there. So, he has been invaluable but we can only push them so far. We do have other Aboriginal staff here but we didn't have any one dedicated to that role. So, he is the front man to broker meetings, and we have really rebuilt those relationships.

I: Do you think that with all these unprovenanced remains which are Australian within the UK and Europe, should there be a safe keeping place?

LA: I think they should all just go back to Australia, and that is a role which this National Keeping Place could take on. That is the only solution, but at the same time it is not a responsibility just to send them off, they also have to engage in their records. Maybe there a bit more brokering needed around a National programme in the UK to do research. The commonwealth in Australia will fund researcher to go to other institutions to do research. So, the commonwealth and Australian government are putting funding in to have the research done in the museums, but at the same time, perhaps the British government may need to match that or the institution.

I: So, do you feel that establishing an exact provenance is not always necessary?

LA: Certainly, for the community that is what they will want to know, but we can't always provide that. So, the realistic thing is to determine a provenance that is as close as possible.

LA: We certainly at times might get enquiries from people who have been engaged by the commonwealth to do that research. We had someone last year to do that research, and he just wanted to pass us some material from French Island or the French Islands, and he wanted to get some more feedback. But it was unlikely that it came from Australia, it's most likely the colonial French islands, which is what it turned out to be. But we will certainly provide feedback and information, as he knew there was a French Island in Victoria and he wanted to know if any other remains had been recovered from there. But we have never had anything, but that doesn't mean that it didn't come from there. But it is also about providing broader context also for those investigations, so if there is something from downtown Melbourne. That is the sort of area which we also need to tackle, as there will also be remains that might just say Port Phillip Bay, and that could be contested, as there are about 3-4 competing groups so it could be anywhere from Geelong all the way around through the city and down to Wilsons Promentry. We also might have something from the western district, so that is as much provenance as we have, and the western district probably takes in 10 different clan groups. So, what our strategy is with Jamie, we have brought in people who are ready to go while the momentum is there and workshops just for them, to tell them that this are the processes internally. These are the ledger of things. Because people are over workshops and talking over these things, so it was really a workshop tailored to really give them the information they needed and in that we talked about starting to contact agencies and working to find a place to bury these remains. At the same time, we said that maybe in the first instance focus should be on remains with known provenance, leave off for the moment anything that may be contested or ambiguous and we will do that afterwards, so let's tackle a do-able chunk. In the end people might decide that they are unprovenanced to Port Phillip Bay and then we have to broker between those 4-5 different groups and they collaboratively it would be wonderful for them to come together and decide to do this collaboratively, but that is unlikely. So, there still will be some remains that will remain unprovenanced. I think some of the stuff in the UK and other places will be like that as well. So even though it might say Melbourne, does the documentation really mean Port Phillip Bay? Sometimes it might say Port Phillip district, which is a certain time period in which it was referred to as that so from settlement through to the 1870's, that was half of

Victoria, so again that makes it really difficult and they would essentially remain unprovenanced.

I: Some museums in the UK are holding on to remains in hope of future scientific testing, and the ideas of further discoveries through testing fragmented remains, which, really, due to their condition probably can't provide much further scientific value.

LA: That is the beauty of the National Keeping Place. In our discussions with the commonwealth what this will bring is each museum will also have someone to say that there might be a certain coding system that was implemented at some point in time, which may indicate a location of the remains. So, when you get all this accumulated material together there is capacity and knowledge to find out information and clues. But because researchers aren't working in that space, they don't know and the commonwealth don't understand that either. There is the capacity in Australia to have a national project bring a lot of people who have been working on these types of material for a long time together to say these are the sort so things you can build on and pull out the information so it can be established. Indigenous language indicated on archival records may also be an indicator.

LA: We are safe keeping some remains here for a community in Victoria and it had Greensborough, however Greensborough in Victoria is a relatively recent name and it didn't match historically, but you have to question when suburb names were established and it wasn't in the 1800's so obviously it can't be it. Then we started to think about the composition of how it was written, which then lead to further development. So even if the handwriting might be obscure you have to think about the bigger picture to determine a possible location. There is probably more information there than is apparent on the surface.

I: Have there been any issues with regards to remains which are hazardous that may stop their repatriation?

LA: We did. Also, with regards to workshops, we have also had a workshop this year with people at TMAG, as they feel very isolated from what they do and with what everyone else is doing, and they are a very small institution in comparison to us. But they came with us and ran the same 2-day workshop, so we could tell them what our approach is and share our approach. In that I'm not saying that we get everything right, but we are more active in getting better results so maybe we are going some things right. And what they hadn't thought about was the hazardous issue. As museums are big on managing risks and biohazards, so Rob prepared this human skeletal remains and human based biohazard procedures, but he was only able to do a very limited scan on the process which was general but specific enough to identify. We have a material scientist here so she was able to provide some input into that, but we also have a system here [Melbourne museum] honorary associated so it of academics or specialists in other agencies who become an honorary associate, you become appointed for 3 years. We've recently appointed Catherine Bennet who's the professor of epidemiology at Deakin University. Catherine has actually worked on

provenancing, she was actually a physical anthropologist but she is now in epidemiology. It's all about bringing in that specialist knowledge without always having to pay all the time. We actually have talked to Catherine about this [hazardous remains] who suggested this could be an interesting project for master's students as they work within the medical school, and that is what we don't have, we can't tap into that understanding of "yes there's a potential for whatever hazardous material it is, but where is the medical knowledge about it, how long do these things exist for. So, we didn't have that, and it's a very measured procedure based on what can be gleamed without then having that more specialized knowledge. What we hope to broker with Catherine for next year is that we get a masters or honours student to do a project around it to give us that next level of information which we have no prior expertise in. We recognize our limitations and you need that specialized knowledge, and she would help supervise that person. It's about taping into networks as well, and actually it's something universities could do as they have medical schools, and unless these things are in medical school.

I: So, have you ever had remains that were biohazard and you decided not to return them?

LA: No what we'd decide to do is discourse the information and we would work with the community of how to do that, but it hasn't happened to date. We have one crania that is painted with some gold paint, but in fact it would be very disrespectful to hand those remains back to the community like that.

I: So, someone has painted the crania afterwards?

LA: Yes. It's also thinking around what is the respectful way of returning remains? We talked to the relevant community to ask if it was ok to talk our conservators to get the paint removed and then we will come back with the report and work through it with the community to then make a decision. So, we ask communities "you tell us if you want this removed or if we should just leave this poor person's remains alone, or do you want it restored back or at least removed. So, it's an also regarding conservation.

I: Are of the remains in a storage which is climate controlled and kept with conservation and preservation in mind?

LA: Yes, that is all we do.

I: Is there limited access?

LA: Yes. And when people come to wrapped them, we talk through the need to wash hands before touching the remains. What we do now is get conservation to do an assessment.

So, with the 80 remains that will go out soon, conservation will test a sample with SRF [Serum Response Factor] testing, with metals and from soils. So, for smaller lots we will probably do all of them, but we will discuss with communities if that is what they want done, if not we won't have that done, but with the 80 we will do a random sample not the whole lot. We will build that into the whole process from our side?

I: Is that the same case for remains what don't have provenance?

LA: No, we would use our Aboriginal Advisory committee.

I: Does the committee play a large role in the repatriation process at the Melbourne museum?

LA: Absolutely! They play a major role they do.

I: Is the Melbourne museum, one of the few museums that has an aboriginal committee?

LA: No, but ours has probably been the longest existing. Other museums have had them in the past and then not had them so it varies.

I: Do you think the National Keeping Place, should be run by an Indigenous body and advisory committee?

LA: Certainly, the Minister's National Indigenous Advisory Committee should be the sounding board there. I know part of their view of that place is that it then provides the opportunity for Aboriginal people to learn these skills as well, so it could become like an academy, which is perhaps their thinking. It's about growing that knowledge and understanding and growing the skills within the community. It will probably take around 30 years to happen but that would be a great outcome, even if it is slow and takes 30 years, it has taken us 30 years to get to this point and even if it doesn't end up any more than just a store house, but if that is the outcome and Aboriginal people are taking control of that I'd think it's about those issues which are important in this dialogue. So, it's about capacity and control and authority.

I: Do you think such a place may be connected with a museum of other institution or just stand alone?

LA: They are quite keen for it to stand alone, but there are further issues with that logistically and economically in turns of sustainability, but that is the vision.

I: And the intention is that such a place would be funded by the government, right?

LA: Yes. But in this current government climate that would be very interesting to set up another whole institute. We do have the institute of Aboriginal and Torres Strait Islander studies in Canberra, which is actually getting rid of its research staff. Mick Dodson, gave a recent talk at the press club in Canberra, and actually put them on notice that our answers have a larger collection than the National film and sound archive they have 120 staff and theirs have 40 and they are shedding people, so what does that say. So, it is about the political climate of Australia as well as financial. So, in fact I could see something like the institute being in the same spot as the National Museum of Australia, as having a national institute that covers all these things and an affiliation with that, but that is just my own opinion. That would make it more sustainable, because then it's even about repeating another whole board and another whole administrative staff and all those sorts of things. It's a great laudable vision, and I hope it does happen as it is important. We [Melbourne Museum] have written a letter of support for their [the ACIRs] initiatives, even though there are varying opinions about different parts of it, we are absolutely in support of the proposal.

I: Do you think other institutions within Australia would show their support for the proposal as well?

LA: I don't know. I think generally yes, but I'm not sure of the specific conversations with other people

I: I feel that having a National place for the remains is a great thing for these remains and may help UK institutions who are not sure who to contact regarding unprovenanced remains to know that there is a designated place that has been established for these remains.

LA: Yes, that is true, although there is no reason for UK institutions to not already tap into the existing infrastructure here. Like here we have a council of Australian museum directors, of which our CEO is currently chair, and they as a body of all the directors of national museums of Australia take this very seriously. I'm sure there is a similar body in the UK to start that dialogue with them to initiate this process. That's why here it's taken carriage off from the top and that's why it's been effective.

I: Well I think that's about all I needed to ask you.

LA: Okay. Well, have a look at our policy and our website for any further information. We are currently on track with remains that are due to be repatriated. We do have an issue with some remains to be considered for next year due to counter claims.

I: Do counter claims pose quite a big issue?

LA: Yes. As they are about contested Country.

LA: So, we have a very good strategy, out of the 4 we have got well over 130 that will be returned and early next year we will likely run a focused workshop on the next lot of remains to be returned. Actual the next workshop will be more difficult due to the issue of contested Country. I prepared a paper for march detailing how to prepare a claim, which was then the basis that we used for our website as well, explaining who Jamie is. It's about giving background on what the museum has done, what we are currently doing, how we identify remains and who does that work; and actually, naming people, as well as how to write a formal request. What we do is we actually draft formal letters, so we tell people this is the sort of thing you need to do and we help them organize the lists, making sure it matches our information so that ere are no hiccups. The Museum then assesses it against the legislation, it then goes to our aboriginal advisory committee, who then make a recommendation to the board. It is the board which has the authority, under the museum's act, to formally remove these remains from the state collection. Then we give them the dates of the 4 meetings which we have each year, so we start to work towards these date with communities in order to ensure that they are fully prepared with all the necessary documentation. So again we [the Melbourne Museum] as being much more proactive. Other preparation for return is thinking about who from our executive will read the apology at the handover ceremony, as it is a formal hand over, a legal change in title. Sometime they want press coverage, so we ask if they want a press release, but usually people don't want it. But we go through all that and it is their decision and we and our PR people will help with that if they chose to have press coverage. We now also say, "pick 4 photos that were taken from the day and get clearance for those" to go along side, otherwise it gets too difficult. At the same time, we suggest that they contact all the other agencies that are involved to ensure the remains final resting place, so this is the structure of the Workshops.

I: With regards to any surveys that go out to communities, are there any issue with regards to language, or communities not being able to fully understand what is mentioned on the survey?

LA: Not really, generally it wouldn't be about language but how we express ourselves.

LA: The other part I didn't mention is that we also hold remains on half of Aboriginal Affairs Victoria, so they are the ones under the act that can legally hold human remains. We can too under the act and our museum act, but they have been working closely with the coroner's office to make sure that anything now recovered, is reburied straight away to stop them come into the museum, but they still do. Aboriginal Affairs will log the remains at the museum and we will hold them on their behalf, which is really stretching the storage area.

I: Do they not have their own storage facilities?

LA: No.

LA: What we also say to communities at the same time is to ask them what they have from your country too, as we are only talking about what we have, and we also say that if you want to know what is in other states I can provide them with details of who to contact. Because rather than go through all this and then at the end of the day you go "oh we could have actually reburied the other 3 remains that were sitting there as well", but sometime communities don't have the capacity to do that.

I: Have you ever had to draft any letters for repatriation for remains that are overseas?

LA: No, that's for the commonwealth, they are the authority for that. We will if people ask us. We did write a letter of support for a Western district community that were trying to do some landscaping around an area that would them be used for reburials. Colin Pardoe is probably one of the one that had done the most about provenancing remains through biometric analysis.

LA: The return of the bark from the Smithsonian Institute, they didn't return all of them, they kept 1/3 back and didn't mention it.

I: Why did they do that?

LA: Their argument was that the original agreement between the two governments was within that exposition, is that America would get 1/3 but somehow, they got all the human remains. So, what they did was evoke the spirit of it but didn't say anything and got into trouble. People went over there to meet with them and was all done very well but they still kept the remains.

LA: There are some very impressive Indigenous Australian people on the Advisory committee for Indigenous repatriation. Ned Davis is fabulously articulate.

I: Well thank you for your time and for letting me come and talk to you, I really appreciate it.

END TRANSCRIPT

Appendix 12:

Dianne Hanchant-Nichols

Interview, Adelaide, 22 December 2014

BEGIN TRANSCRIPT

DHN: Deanne Hanchant-Nichols **I:** Interviewer

I: Thank you so much for agreeing to an interview and for your extensive responses to the questionnaire I sent. I didn't realise you had previously completed a masters thesis in repatriating Australian Indigenous human remains, were you looking specifically at unprovenanced remains or just repatriation in a general sense?

DHN: It was about repatriation in a more general sense and the National Skeletal Provenancing Project, which ran in Australia in 1994 through to about 1997.

I: So, what was the reason for its termination? Funding?

DHN: Funding was one of the reasons. It ran out of the South Australian Museum but it was a national project. So, my role was the archiver and most of the work I did in the museum myself, but I did have a research assistant as well. So, we visited largely the state museums, but also in Sydney particularly the Macleay museum that holds remains. So, I think the only museum that I didn't go to was Western Australia, and I think at the time they intiiatlly didn't have any remains , mind you we thought Darwin didn't have any either and when I actually got to their Northern Territory Musuem and Art Gallery, they actually said "Could you come and have a look at these remains?", and I said "What remains?", So this was part of the whole issue, they were remains which the South Australian Museum had returned previous to my working there, about 4-5years before, and the museum through they had been reburied, but in actual fact the community had said " we don't know who these ancestors are or where they are from so we don't want to rebury them." They really didn't want them in the community, and this was despite the fact that the museum had done quite a bit of work with members of the community, it was quite different once they got back there. So, they have been reburied now but it took a long time, and they had actually been in the Northern Territory Museum and Art Gallery, and they also had some other

remains that similarly had come, I think from Melbourne, but I'd have to recheck to confirm exactly.

I: Right. And were there any issues with regards to the process of reburial of the remains once the community had given the go-ahead?

DHN: Well that was the issue, because they didn't know who these people [ancestors] were they didn't want to bury them in the wrong area.

I: So provenancing is really important for the community in the process of repatriation.

DHN: Yeah. Even though those ones they knew came from Borroloola, they actually knew even the general locations for them.

I: Oh really?

DHN: Yeah, as they had actually been collected by a police inspector in the late 1800's and that had happened for a lot of the Northern Territory remains with the South Australian museum has, came back from the police troops. So, they had reasonable locations for most of them, and if you go back through all the troops notes, but for certain communities when the remains got back that wasn't good enough. This was generally due to things such as Moiety systems [kinship and skin names], they didn't want to be burying them in the wrong area.

I: Right, okay. Also in regards to present day reburials are there any current decisions to placing a plaque or some form of acknowledgment or recognition in the original location of where the remains were taken from and then reburying remains within a local cemetery?

DHN: I think that has happened with some remains. Usually through they don't know exactly where the remains came from, so for most of them the issue is if they can be buried back in the community, and do we really know that they are from that community. So, they will be buried in a certain section, if that community has their own cemetery or some sort of consecrated ground usually they will go there. In some cases where communities' own parts of land, they will bury them back on Country there, but usually it's the case, when it really comes down to it that it's really good in theory to have these people back for burial, but them people get very nervous about where to put them as they don't know who they are.

I: And are they ultimately thinking of the long-term internment of the remains?

DHN: Yes. So that's why people want to get it right. That was certainly the case, about 20 or so odd years ago when remains were returned from the Australian Museum in Sydney that went back to the wrong area. Often that has been the case, even though they thought they had done the research really well, it's often been the case that information has come up later. That was always the thing when I was working on the Project, and it's happening a bit with some of the communities here in South Australia with remains in the South Australian museum, we want to be able to see every bit of documentation that goes with those remains to make the decision that absolutely they are from that Country. As they would consider that there would be nothing worse than burying and then having to exhume.

I: Absolutely. Has that actually every happened?

DHN: Yes, it has. Not in South Australia but it certainly has happened interstate which caused all sorts of issues.

I: So, with remains from international institutions and the remains fairly well documented?

DHN: No, usually not. Often, they are just labelled as Australian or sometimes even just Oceanic. Also, the South Australian museum and the Australian Museum particularly were notorious for swapping remains, but you really have to go back and try and find the original documents because often information is lost from the translation of the document from when it's registered, but also some of the institutions have changed registration systems to new ones. So, for example the Queensland museum I think they have had 3 or possibly 4, and one of their curators there, probably 20 or so years ago, went through everything and found that there were all these things that had been left of when the system had been changed. The South Australian museums was the same, when I went back and had a look through things, and as you only have a certain amount of space in the register things will be left off. There would be problems in translating information, one of the classic cases it might say "Adelaide" but when you actually look at the records, it [the remain] was actually taken to a police station in Adelaide, so it actually came from Murray Bridge which is actually miles away. So, things like that were very very common. Often when they were registered they were attributed to the area in which the museum came from not necessarily where the remains actually came from. So, I would say that is the case for many of the international museums, where the material may have come from South Australia, but it could have been from the Territory originally or anywhere else. The classic example where something is swapped back to the UK, I think it was, the museum director is quoted saying "because we have plenty of that sort, so you can have those".

I: It is quite amazing how much the UK does have within their collections; however, it seems like they just don't have the resources and time to research the remains.

DHN: Well that's the thing, it really needs to be done, even as well as people work in archives in various places, there is so much more to be found. However, the problem is that in some places that information doesn't exist anymore. The South Australian museum was fairly lucky because they still have most of their original documents, and I went through somewhere between 83,000-85,000 pieces of paper to extract what information I could. I got very good at reading old writing. Bur for example, Sydney University they had very little because they pulped a lot of their documentation for the war effort for make paper, so not everywhere have good documentation.

I: So, when a repatriation does occur, do they request all the documentation to go with the remains?

DHN: Yes.

I: Is that the same when it comes to casts and photographs?

DHN: Yes. Anything that can possibly add to it, as that can be the difference of them being able to matching it back to what it is, if you know that something has come from a particular museum. So, in the case of one of the known individuals from the Edinburgh collection which is now being reburied, that was the way in which we were able to identify the remains, because Ramsey Smith, who had sent a lot of material over, from everything that we have been able to find out, he kept a diary as well as sort of maps that gave vague areas of 'x marks the spot', they were still in existence but an actual diary with exact information in it doesn't seem to exist. Now whether there is a copy somewhere still buried in the bowels of a university of museum who knowns, but I do know that when he died he made sure he was cremated almost immediately, he wasn't taking any chances. But I also know that his family had a huge burn-up of all his papers just a few days after he died, so whether it [the diary] went in that or whether it's still somewhere else I don't know. So, that is part of the issue of not having those resources, but we were able to put together all of the bits and pieces of information about that known individual, so because we knew it was a complete skeleton it came down to, because we had a photograph of the man, who had a broken leg, and we knew which leg it was, and we also had a court report which talked about the man's leg in a sling, that was sort of between Cressida Fforde, myself and my GP we were going over medical terminologies use back in those days, and what it might have been, and we knew what [recording disrupted] police records, so ultimately it was really important to get all of these records.

I: Are there any instances where you have records but get to a point where there is just a dead end and nothing else?

DHN: Yeah, you do.

I: So, would you then just classify it [the remains] as South Australia or unprovenanced?

DHN: If you know then yes, if not then it's completely unknown. Some are classified by state but some are simply known. Even the state ones, depending on any information you have on them, it could be really contestable as to whether they even did originate from there. There is a skull in the South Australian Musuem which supposedly is my great great uncle, and my family were obviously quite upset about that, and really wanted it to be reburied, but I said "give me a bit of time as I'd like to see where the rest of the skeleton is", but there was no real information about how they might have got the skeleton, so there was a note in the records, there was a note in one of Norman Tindale's notebooks, and a note of genealogy of Tindale's in his notebook, where he had spoken to my great grandfather, where he had put a note that the skull of his brother was under this number in the museum. But it was really difficult because we didn't know much, we had the birth records of his brother and nothing else. So, part of the Skeletal Provenancing Project was that the 2 physical anthropologists who were working on it were looking at measurements, and looking at like measurements for certain areas which are caused by environmental conditions and such. So, I got both of them independently to look at the skull as a blind test with other skulls and said "tell me about them", because the interesting thing about this was that it had a note in the register that said that it came from India, and was donated by this particular person. So, I thought it was odd, I mean how did it get to India, and we're talking 1897 or something around then. Anyway, the physical anthropologists both came back to me independently saying that it could actually be a female or it could be a young man's skull, but definitely Asiatic, and the other said that it may be a young male and possibly Eurasian but we don't know. Eventually after a long time, probably 2 years, I actually got into the museums strong room and found yet another lot of old documents, and in this was a reference to this skull that said "it was purchased by this gentleman in India, because he recognised it to be the skull of an Australian Aborigine". Now we're talking 1897 and the chances of that happening are very limited so we said no we are absolutely not going to rebury these remains, because there was no other indication. There was no translation or indication that it was Herbert Spender, how it has been translated to "this is Herbert Spender's skull" is anyone's guess.

I: Has this been explained?

DHN: No, not at all. So, there was absolutely nothing there to link it, and the fact that the physical anthropologists looked at it and indicated that it wasn't the right type, we and a couple of Elders in the family said "we don't think we want to go about this"

I: Just so I have this clearly, the whole issue relating to not wanting to bury ancestral remains they are not 100% sure that they originate from their land is due to the spiritual unrest it may cause?

DHN: Yes. Definitely. Because they feel that the spirit of that person will be very unhappy if they are buried in the wrong Country, and not knowing who they were, they could have been a very bad person, or they could have been a magic person or any of those things, so to bury them there could cause all sorts of trouble. If could have been

someone from a neighbouring group that were enemies or of completely wrong kin. In Western terms, I guess it would be considered "bad karma".

I: Have you ever encountered any communities that don't mind having ancestral remains on display or anything alike?

DHN: No nothing like that. I guess when looking again at the first of the Edinburgh collection that came back in 1995 or 1996, this whole idea of Keeping Places and a National Keeping Place has been discussed so many times, and as I said in one of my papers I wrote about this, there was a forum last year [2013] about this but still we just don't know what is happening. Anyway there was a group of people, and I did include this in the paper about Keeping Places, there was this one idea that they could bury the unprovenanced remains at Uluru, as it's the spiritual heart of Australia, however I don't think anyone had spoken to the Mutitjulu community, but I think that a few Elders had gone to Edinburgh and the UK and I think they brought back a few remains, not just the Edinburgh ones, and there was a particular Elder from the Kimberleys and remains from the Kimberleys. Who was one of them who said I think we should have a Keeping Place, but when they got back said "I don't know who they are" and he didn't want them buried in his Country. The Kimberleys is a very big area so, it's [National Keeping Place] is good in theory but when it comes down to practice it's not.

I: So essentially, do you feel that all remains that do have some element of provenance be it state provenance, should go back to the community if they can or just remains within the state?

DHN: Well if the community is happy to accept them then they should go back to the community, I would rather see them reburied and that's just me personally. However, I would also rather see them sitting safe and secure in a museum than, as is the case in South Australia at the moment, where remains have been back here for 16 years and they are in a community centre, which is Aboriginal control, but they haven't been reburied, and I am really angry and upset about that.

I: Any is there any indication why that has happened?

DHN: I have been given all sorts of reasons as to why, and I think it's all about a bit of politicking.

I: Oh really? Could it not be an issue of the community not having the knowledge or resources to conduct a reburial?

DHN: No. They do know how to conduct reburials. The story from one groups was that they were going to have a reburial a few weeks ago, that was actually when Cressida was over, and one group had told me that another group had stopped it, why they stated that they didn't want to stop the reburial but wanted it to be conducted properly. But at the end of the day my concern is that those old people [remains] are there and not buried, and there have actually been a lot of people who have been involved in this and have gotten sick or died, and you think "well I think there are some unhappy spirits there", and that is a long time. As much as I don't like to see remains sitting in museums, at least the museums treat them with care and respect, they are safe and secure and they aren't a political 'football'.

I: Are the remains separated from the other human remains or objects within their collection?

DHN: They are separated from other objects, however human remains are generally kept together and kept where they know in their clan group things would be less tense, and usually only a few select people have access to them. I know that at the South Australian museum, people need to prove that they are from that community, so it's not like you can go anywhere and have general access. Unless however a bonofide researcher, who obviously has some really good information could gain entry is they had a valid reason as to why, but then again that would be discussed with the community.

I: So, community involvement within the museum is quite extensive?

DHN: Yes, it really is.

I: Do you know of any other communities where they too haven't reburied repatriated ancestors?

DHN: I think there are some communtiies interstate that have, but they have their own keeping place so that is a little bit different. So, again they are secure.

I: Right, so there are some communtiies that do have their own Keeping Places

DHN: There are yes.

I: So essentially a National Keeping Place really would only serve to facilitate remains that have very little to no known provenance.

DHN: That's right, and I think you would find it really difficult to get people to agree to that especially the local community. As wherever it is it will be on someone's Country.

I: Yes, absolutely, and I think at the moment the most viable option seems to be Canberra as a location.

DHN: Yes, and that was also suggested in the early 1990's too as a possible option for keeping the really unknown remains. At one stage, there was a thought that each state could have a Keeping Place, so that if the remains were unknow to a region there could be something for them, and where there were completely unprovenanced remains there could be a national keeping place. But there has never been an agreement for that.

I: So why do you think there has been a recent push to get this Keeping Place established?

DHN: I think it happens every now and then because people don't want the remains in museums, and especially because, as was the case with the Edinburgh collection that came back, the issue is where do you put them? When I worked at the South Australian Museum, and I'm not sure what the situation is there now, but about every couple of months we would get some remains come in, and it was usually someone who had found them at home or collected them as souvenirs, especially as jugs, so someone is sorting out their grandpas or great uncle's sheds and they find these remains and bring them in. I remember that they would rarely leave their names, so we couldn't get that information of where they [the remains] might have come from, mostly because they thought they were going to be in trouble, and I actually suggested to State Aboriginal Affairs that they have an amnesty, and they said "we don't want to know about it as the flood gates would open and where would we put all the remains?", so while the State Aboriginal Affairs did start taking any

new remains that did come in, then they started to now have anywhere else to put them all, so they went back to the museum again. So, there is a real issue.

I: So, do you think the National Keeping Place, while it would be able to store remains, would you think then that it would serve to store the remains and then once further provenancing has been done they would go back to a possible community or state repository, or that the remains would just stay within the repository as a resting place?

DHN: For so many of them it would be their final resting place.

I: And you don't think there would be any access to the remains within the Keeping Place?

DHN: I don't think there should be. But the problem would be that you'd want them to be accessible if there was any further information on them, so storage would be interesting for that, as there is always the possibility that something turns up, but you wouldn't want that to happen where you have already reburied them.

I: Have you encountered any communities that truly belief that the remains have to be buried, they can't just sit within a storage fascility or repository?

DHN: Some communities do and some don't, so that will be when you're polarised within the same community.

I: It appears as there ascertaining a unanimous decision is almost impossible, as finding a neutral location, even the one suggested in Canberra doesn't seem likely.

DHN: Exactly, and Canberra is hard to get to for most people, even if people wanted some sort of memorial where they could go and pay their respect, it's expensive to get to as they need a car to get there etc. so all of those things. Also for some people there is the mentality of Canberra as a made-up city, it's a government city.

I: And Canberra has the political stigma to it.

DHN: Yes. So, you do have issues with that as well. So, in some respects you do think that it is a good idea to have it there as it is a political centre.

I: Do you feel that there is some place else that would be better for the construction of a National Keeping Place?

DHN: No, and as I mentioned in my responses to you and especially in my thesis, I am very much a fence sitter. On one hand, I'm very much like to see the remains reburied somewhere, but on the other the implications of having the remains where they shouldn't be is very difficult, and I just don't know what you do with that.

I: Some museums within the UK don't actually consider the repatriation of human remains unless a claim has been made, and in most cases where remains have no provenance they are unsure as to who to contact if they do decide to repatriate these unknown remains.

DHN: I know, it's difficult. With community people, there are instances where there are communities which have the resources and are noisier in making their opinions and voice heard, but there are also communities that don't know where to go and what to do, and they don't know how to find out where their ancestral remains are or whether there are any within national and international museums, and part of that is

working with museums. I remember one curator that said to me that they "won't give them shopping lists, but we might tell them if they ask", but they have to know what to ask, and they might say that they "do have some from your area because you asked", but "unless they ask you're not going to tell them about any associated grave goods", as they will ask for them back. So, this is all very different to the whole NAGPRA.

I: Are there any communities out there that have no idea that repatriations are going on and that remains are within museums and have been displayed?

DHN: Absolutely. There is still so much poverty within Aboriginal communtiies, that for a lot of them this subject is the furthest thing on their mind, they are just trying to survive day to day and deal with all of their own issues.

I: So, the issue of repatriation really is at the bottom of the Australian Indigenous list.

DHN: It would definitely be for some communtiies yes. If they were to spend money it would be on health, welfare and education, rather than something that is removed and far far away.

I: Is there any funding or government support for communities? I know museums do have some funding when it comes to repatriations.

DHN: There is some but not a lot, and at the moment under this current government, funding has been pushed back further and further. In October, the government stated that everyone had 3 weeks to apply for a large bucket of funding, and under that came things for cultural programmes, language programmes, university funding for our Indigenous Teaching Assistants, everything. It however turned into a bit of a 'dog's breakfast', so they have now lengthened the time frame for the application of that, so as a result a lot of programmes have lost funding or are unsure if they will get any again, so again cultural programmes like repatriation are way behind on the list or priorities for funding, so it's really difficult.

I: So, within your own words, what do you feel repatriation really means for indigenous communities?

DHN: I think it's closure for a lot of communtiies in getting those ancestors back where they should be, and I think repatriation can go a long way towards reconciliation and of closing some of those really old wounds. I don't think there is much more you can do than take away someone's ancestors. One of the things that is really big in Australia at the moment, particularly in South Australia because we have different laws, is the reuse of burial grounds and cemeteries, and it's huge at the moment. In Victoria, it's been overturned to they are not going to reuse, Western Australia and South Australia are going through it at the moment, whereas New South Wales is just starting. So, our laws say that, depending on the cemetery, that after 15-20 years and if the family haven't renewed those leases the pits will deepen and the memorial plaques placed. It's a hugely emotive issue, and it's been interesting that a few times people have said that "aborigines have these sacred sites" but in actual fact Aborigines are also buried in cemeteries as well. One of the cemeteries that has just come up, and it's been highly controversial is the Anglican cemetery here in South Australia. It's a smallish cemetery in the scheme of things and it really came to the fore because sir Thomas Elder who at the university of Adelaide as well as others made so many requests, and he wasn't married and had no children. So, his grave was up for reuse, now we talked to a few people from Elders and university of Adelaide they said it would be good PR for them to renew the lease, but not everyone has that. In that little cemetery, my little auntie is there, so it can't be turned into a

race issue or thing like that, it is a general emotive issue for people and it's that thing that if you're talking about people ancestors people expect that when they were laid to rest they stayed. It has often been the case with communities that they have remains from their community overseas somewhere, and I guess it's probably worse in some case when they are known individuals, as every few years there seems to be somebody who pops up.

I: Do you feel that the construction of a provenancing project within the UK for remains which have little to no known provenance would be something which could be instrumental in furthering the process of repatriation and should happen or should the remains just go straight to Australia? Or perhaps have a programme which educates the public within the UK on why repatriation is important?

DHN: I think it would be really good to have that sort of programme, and I think I'd also like them to come back to Australia so that at least they are home. I think it's really important to have that sort of education, and certainly in the mid 1990's when Robin Coles was at the Museum of Mankind, he's on record as saying that "we are not going to, there is no way we will repatriate anyone, and potentially other people might [inaudible] so I encourage you Aboriginal people other in Australia to give yourselves to us". Now I think that mentality has changed dramatically since then, and certainly Moira Simpson in her book and what she did, found that lots of the museum workers really are pro-repatriation, it was the Directors and such that weren't. We found at that stage that a lot of UK museums were coming forward and offering remains, asking who they need to talk to, which was really good. I think that educational process is still very important because in the UK I think there is a very different attitude to human remains, and there is no close ancestral connection which has been lost within the UK, which is very different to that spiritual connection that is felt here, and obviously it's not just in Australia, but also in a lot of countries where the indigenous people are present, such as America, New Zealand, the Sami countries, so I think that education process is really important to ensure that people understand.

I: It's true you do get children who go to the museum like the British Museum that just want to see the mummies, and they view the mummies as an object rather than person.

DHN: They do, and I think that things like the media sway that. I use to be the manager at the old Adelaide jail here in Adelaide which is a museum now, and I remember my very first week in there, where there was a little boy that was a Joey scout, and he said to me "are there any dead bodies in the walls?" and I said "No", "Any skeletons?" and I said "yes buried in graves", "is there any blood around?". But Kids do seem to have that morbid curiosity, and it is good in a way. But I think it is about that education process and we have become so blasé from seeing things in the media, now we see everything, dead bodies, everything. Today there was a siege in Sydney with people terrified pressed up against windows. There is a sense of wanting to be informed but also a sense of shock, and we have become hardened from that exposure, but it is about education and realising that these are people and someone's relatives, and I think it's very different when you put it into how would you feel if it was their own family.

I: I think from my own personal observations that UK museums aren't fully aware of the connection which indigenous people have with the ancestral remains and due to that and the desire to not be viewed negatively act, almost in fear or political correctness in not displaying these remains within museums. So I feel that an education programme that does detail on why repatriation is important and the

impact it has on communities is instrumental in educating and reinforcing relations between institutions and communities.

DHN: Absolutely there could be. However, I think the issue that has always been part of this debate is that there is more that can be learnt from the remains, but one of the things that I have found is that: A. a lot of the skulls, and it is usually skulls, have never been open since they have been put in those boxes, which may be over 50 years, the other thing is that when they were studied it was always the same sets basically, [recording disrupted] The other argument was all the scientific advancements that can impact on the information which these remains can provide. However, the thing is for Aboriginal people it actually hasn't really done anything, there have only been 2 things: 1 is the Cure for Yours, [inaudible] which was one thing that did actually help aboriginal people, the only other real thing was the modern dental plates, and Dr. Andrew Abbey at Adelaide University, the only thing is that the modern dental plates still didn't help Aboriginal people, as Aboriginal people have quite large teeth in often bigger or smaller jaws, so it actually advantaged lots of other people but not necessarily Aboriginal people. So, to say that there have been all of these wonderful breakthroughs they can't prove them.

I: So, you mentioned in your responses that museums are closing their collections to the public, do you think that is because they don't want to let the objects go or provide the possibility for a claim for repatriation to be made?

DHN: Yes, it is. I think it stems from a western construct of ownership and not wanting to let something go, especially if it's going to be reburied and you won't be able to gain access to if again.

I: Do you believe that through the process of repatriation, indigenous communities are regaining and re-owning their culture and authority over their heritage?

DHN: Yes, I think it is. Like I said before, it that closure in getting back your own and your own people. It also gives people back power over their community.

I: Do you feel that there is perhaps an underlining of guilt through the process of repatriation?

DHN: I think that largely depends on the countries and on the individuals, as I think some people do feel like that but it's a bit like the "sorry" business where people didn't feel responsible as it happened such a long time ago. But again I think it comes down to education, and we do a lot of cultural awareness at the University, more than over a year ago, and I have a trainer come in and he does 3 4 hour sessions, and they are quite full on, we have had a few students say "well that was really confronting and we shouldn't have told us that", and the thing is that we aren't there to make them feel nice about it, however we don't want them to feel personally guilty, but they should understand why people get so upset about these issues. It is really interesting because you see a whole range of emotions from people, but by the time you get to the 3rd session, most people actually get angry and you say to them "you don't need to be angry as such, because it's no you, but you should be angry about the system, and you need to channel that so it changes the system". I think that is actually what we want to get to, if people actually get that emotional response where they understand why communities feel so strongly about these things is more beneficial. Rather than it be some sort of textbook knowledge. As I said before, I think western thinking has a very different view of remains. The mentality of communities has changed over time, whereas in indigenous groups it is still present, they are till connected to their land even if they haven't lived off of that land for years they still talk about needing to "go back to Country", and they may not have even been born

on that Country, but that is there they feel drawn to. So, again that is very different, when you look at other populations and they move around a lot and often they don't know where their roots come from.

I: With communities which have been impacted by missionaries and the stolen generation, and they have adopted Christianity, do they struggle to find a way to rebury ancestral remains and do they look to other communities for help?

DHN: Some do, but it depends largely on the community, as some of the reburials have been Christian reburials which is interesting. Some are a combination, and some are as much as they can make them of a spiritual sense. But it ultimately depends on the community and how much of their own community rituals and ceremony practices they still retain. Often reburials, some that I have been to have been a combination, so they will have people there that may know some of the traditions and rituals, there will always be a smoking ceremony to purify, but they may also have a minister of religion there as well. Largely that depends on the community because people were forced into mission stations, you find people who are either totally against the Church, but then you get other people who are strong Christians and they intermarry their traditional spiritual beliefs with Christianity, so it really does depend on the community and people within the community who organise the reburial. That was actually one of the questions I looked at in my thesis, and even around the world within indigenous communities there is often that mixture. I guess for communities that don't really know the traditional burial practices, by placing a Christian spiritual essence on the ceremony the preys are almost akin to the traditional preys that would have been conducted.

I: So, do you think that if the National Keeping Place does get the go ahead, would they conduct combination ceremonies or try and keep the mortuary practices to traditional practices?

DHN: I think I would actually like to see a combination, I would say that you would have people that were absolutely wanting it to be just something that was 250 years ago, but that doesn't work for everyone, especially with communities that have had the most amount of contact at the time and lost a lot of their traditional practices, I think you would find that they would want something a little more modern. But again, that's when it becomes very difficult to have something that is a National Keeping place for everyone in Australia, because communities are so different.

I: The name National is also quite controversial as Australia have 2 differing cultural groups, wo what does National represent and mean?

DHN: Yes, it is, and that is another reason why it becomes problematic. I think it is probably one of the reasons why we haven't heard anything back, as it's just so hard to establish a definitive result.

I: I know the ACIR put out a survey last year, and I have tried to contact someone from the Committee to talk about it but unfortunately have had no response.

DHN: No, neither have I.

I: I am really hoping to find out the results from the surveys and discussions.

DHN: Yeah. I unfortunately was unable to go to either of the community discussions in South Australia, I did put a submission in but I haven't heard back from that. But I would have liked to have gotten to that meeting as there are so many different views, even things like in some communities it is only the men that deal with human

remains, so for them it is unusual for women to be involved with remains. There are some communities where women are involved, but generally it is just men. Some areas are very patriarchal and others matriarchal. You'll find that very few delegations that go overseas to collect remains are women, there aren't really many Aboriginal women who work within the repatriation of ancestral remains.

I: Have there been any issues where Indigenous Australians have not wanted to discuss ancestral remains with non-Indigenous Australian?

DHN: There would be some people, but generally no because they respect the people who have the information. But it is strange that there aren't more Indigenous women who work within repatriation.

I: Could this be due to the spiritual disruption or connection which may occur with working with human remains?

DHN: No generally women are considered to be more spiritually connected to the ancestors. So, it may be more due to the western ideology and influence of men being the decision makers.

I: Have you encountered any communities that don't want to play any part in the repatriation of ancestral remains?

DHN: There are some and often they are more traditional communities, due to the spiritual issues and repercussions that may occur, as there are very few known and named individuals within collections these days, so for some communities it's just too hard.

I: So, would these remains then go to the state museum or be buried in a general cemetery?

DHN: No, they would usually go to the museum for safe keeping.

I: So, if that was the case, would these remains then eventually go to the National Keeping Place?

DHN: well these communities would still probably want to have a say as to the outcome of the remains, but there are some communities that really just don't want to know about repatriation as it is just too hard to deal with. But like any community you'll have a range of views, where you'll have people who want absolutely nothing to do with remains and then you'll have others who do. It's funny I have actually been asked by some communities to go in and talk to them about what I know about repatriation and archives and in most cases, it is all men, but they are quite happy to listen to me and hear what I have to say, but it would only be men going into there for discussions.

I: So, would you go in and talk to the Elders of the community?

DHN: Yes generally.

I: Are there instances where the Elders agree to one thing and the rest of the community oppose their decision?

DHN: Again, it depends on the community, as there might actually be a whole council of community members that want remains back. For example, out in Lack Victoria in 1994 they lowered te water in the lake and that was a real community decision to exhume those remains and rebury them somewhere else. While they thought there

was only a couple of dozen it became apparent that there were a lot more, thousands even, as when they were investigating remains there were more layers of remains underneath.

I: Was it perhaps a part of an old ritual were the remains were placed within the lake?

DHN: Well the lake is a natural lake which they have made bigger through flooding other areas. There were probably only 2-3 Elders who were involved in the process and a lot of the others were actually much younger community members. One of the things that they did was they let the museum and physical anthropologists bring 2 sets of remains back to Adelaide to do some work on them, but the proviso was that they could only have the remains for 2 years and them they had to bring them back to the community. Some communities will do that, they will say to a museum "we want those remains back and reburied, but you can have them for this period of time to do that, but once that period is over we want them back". Whereas you will have other communities, like a community I worked with in New South Wales that said "no absolutely not, you have had them for all these years, if you haven't done anything on them then bad luck, we want them back now". So again, it depends on the community. Often with younger people within the community they are more interested in finding out how people lived etc. whereas other people say "no we just want the remains back in the ground".

I: Do you find that the people that do say no are from communities that have sustained throughout time, whereas communities which have depleted in numbers are more incline to allow scientific testing to be conducted to provide additional insight for them?

DHN: I think so yes, and these days there are lot more younger community members who are involved in science, there are a whole lot of Aboriginal archaeologists and anthropologists out there. And while there are differences of opinions, I do say in terms of when I do any training, "do you hole exactly the same views as your parents?", and people say "well no", so therefore why would you expect a community to agree. We all have such diverse opinions, and especially within a community, depending on their age, education levels all sorts of things.

I: When it comes to this concept of 'Ownership' over the remains, as I know the UK do reinforce that remains can't be owned, is this very much the same case here in Australia?

DHN: Remains can't be owned no.

I: So, them how does that work with Indigenous communities claiming remains, would evidence of lineage be essential?

DHN: Yes, proof would be needed. Even now with this issue of graves where you can pay as much money as you like to have that lease renewed, but you actually can't own the lease. But you need to prove that it has been left to you and it's a family thing, so ultimately it is very similar to repatriating ancestors. So, communities can work together and have proof to get the remains, back but they ultimately down own them.

I: Say that the South Australian Museum has remains which originate from a community in Melbourne or Victoria generally, would the museum send the remains to the Melbourne museum or work directly with the community to process the return?

DHN: If the community was known them we would send it straight to the community, so the museum only really steps in if there is no community or if the community ask for them to help of facilitate the process. But ultimately, it's best not to swap the remains within institutions but to deal directly with a community group.

I: So, if you did have some remains from a Melbourne community, would the museum make the initial contact?

DHN: It depends on who is working within the museum at the time. Some museums have actually let communities know that they have remains from their community and asked who are the appropriate people to contact, whereas other museums won't.

I: Do you think that perhaps there should be an archive or list on state museum websites detailing known remains within their collection which can be repatriated?

DHN: Yeah. I think they should be proactive about letting communities know. But then again, I do think museums need to be careful about who they deal with in the community to make sure that they have full consensus in getting the remains back. So, like these ones here in South Australia that have spent all these years unburied, they dealt with one particular group of people, and this other group is say "well why is that happening?". So, it's a really hard call for museums, and I think there are museums that really aren't very good and others that really do try, but it's a very difficult call for them.

I: Do you think that because museums are connected with the government that there is this stigma and mistrust which is expressed by indigenous communities towards museums and ultimately staff?

DHN: Yes, there is, and as I said it depends on who the staff are. But if communities make a connection with staff in a museum, then obviously those repatriations will be much smoother.

I: Do you feel that museums have intentionally sought to hire Indigenous Australians to within their institutions so that they can work better with indigenous communities

DHN: Yes absolutely. It is about the relations which institutions make with communities. Like I said, museum with good intentions will contact a person within a community and have everything organised, and then another group might come forwards and say that that group are not the right ones to talk to and that the museum should talk to them instead. So, it is really difficult.

I: Have there been many instances where communities have fought over remains?

DHN: Absolutely.

I: So, what happens in that instance? Do the museum have to go through their records to ascertain who has the better claim ordo communities have to provide further evidence of affiliation?

DHN: Yes, they do. They have to prove what their link to those remains are, and it is really difficult. I guess that's when it comes back to what I said before where you have some communities, which use the remains as political 'footballs'. So, for me I don't really care about the politics of it all, I just want to see those old people reburied.

I: Are there many groups which do still use remains as political tools?

DHN: Certainly yes.

I: Is that perhaps why some museums are hesitant to return remains to communities what may have previously shown similar behaviour in the past?

DHN: Yes, that is a genuine concern in the museum wanting the remains to be returned and reburied but also this can be used as an excuse to hold onto remains.

I: Have you worked with any indigenous communities in the past in helping them formulate a claim for repatriation?

DHN: Yes, I have, back in the day. It was essentially knowing where remains have been sent and letting people know within the communities know. Some of the Edinburgh remains were like that where I knew that they came from particular communities, I would actually contact those people and encourage them or help them write something to ask for the remains.

I: So, claims are coming directly from Indigenous communities.

DHN: Yes, absolutely.

I: And communities would refer to the remains as their family within their claims?

DHN: Yes, definitely. They are ancestors so they are family. Even if you never knew them they are still considered family to them.

I: How much documentation does a community require to prove adequate affiliation to remains?

DHN: They need to show their link to the area, and who they are and that sort of thing. So, it's a bit similar to what communities have to do to prove Native Title.

I: With regards to remains which have been purposefully transformed to decorative cultural material, do you think they should be classified as human remains or cultural material?

DHN: I think they should still be classified as human remains, as they are human remains first and foremost and I think that is the most important thing, however they have been modified. The South Australian Museum had a couple of skulls where people had turned them into lamps which is interesting. But they are still human remains, that doesn't change them.

I: With instances where human remains have been bought and proof of purchase is presented does that make it harder for remains to be repatriated, or ultimately is the classification of the remains as human outweigh any other institutional and non-indigenous claim?

DHN: Yeah, I think that they are ultimately human remains and they should go back. From a museum perspective, it's a bit of a 'cop out' saying that "we paid for them therefore we have them absolute".

I: It ultimately goes against the notion that human remains can't be owned.

DHN: As we talked about before, they are not someone's to own.

I: Do you think there are quite a lot of Aboriginal remains within private collections around Australian and Internationally?

DHN: Absolutely.

I: Do you think they are holding on to the remains in fear of getting into trouble?

DHN: I think for a lot of people it is that fear of getting into trouble. Like I said before about the museum, people would scurry away after handing over remains found within their homes, or a box would just appear somewhere.

I: Have there been any remains you've had to do conservation work on, if someone had previously painted a skull?

DHN: Yes, we had a few that had paint on them, but we've never actually done anything with them.

I: Would you inform the community that this had occurred to the remains?

DHN: Yes, absolutely. There is one famous case where there was a swastika engraved into the front. But yes, you definitely do tell the communities. There was a classic case of remains that case out of a house in Adelaide which is now unprovenanced, however was originally provenanced to Adelaide, and where I looked at it there was a typo in the police report that said "used for satin worship" I think it was meant to be "Satan worship". So, there were all sorts of skulls and remains which had been modified in some way, so we just let the community know

I: So, with remain that have little to no provenance, do you think there is anything else that can be done for them? Or is their placement within a museum or national keeping place their end?

DHN: Sadly, I think it is, as I just don't think there is any getting away from people you just don't know where they originate from, because the spiritual association is just too hard to deal with for a community.

I: Does Australia look at New Zealand and America with regards to what they have done with their unprovenanced Maori and Native American remains and establishing a National Keeping Place?

DHN: I think that's probably why that whole discussion came up again last year. But again, I think each country has to do whatever they think is best, and I think we have dealt with thing very differently here and things haven't been done. I suppose New Zealand is a little bit different as the Maori do have one language and they are united as one people, so in that respect we are very much more like the Native Americans in that there are so many different groups. In Australia, you have at least 250 different groups of people, and people are just so different, and people were treated differently in death.

I: Do you think this National Keeping Place is just justifying the government's position and say that they have done something and solved the problem?

DHN: I think so, it's them out of the museums, it's out of their hair.

I: Would having keeping places within each state (for remains that are provenanced to a state) be viewed as perhaps a better option?

DHN: No. It then comes back to this same issue or provenance, and where would you have them within a state what isn't on a particular community's land. So that's when the state museum or repository becomes the most neutral place for these remains.

I: But then again museums are still a government institution

DHN: Yes, it is, and it's problematic for the community the institution is on, but I just can't see national institution being constructed.

I: In a sense, the function of Keeping Place is almost the same a s a museum.

DHN: It is and I would rather see the remains returned than stay within a museum. However, for me a museum is more respectful than a Keeping Place, in such a way that they control who can see and have access to the remains, whereas in a Keeping Place within a community it would be very difficult to have those same levels of control, and I just don't see the point in shifting the remains from one shelf to another in a community. If they are going back to a community they need to be reburied.

I: Do you think there has been a shift in public support for removing indigenous remains from display and repatriation?

DHN: I think there has been, and like we were talking about before, a lot of it is education. A lot of people look at them as objects instead of humans, which will only change with education.

I: So, if remains were to go back to a specific community would you try to instigate cooperation within the community to ensure that the remains are reburied, or once you've handed the remains over you take a step back and only help out when asked?

DHN: Again, it depends on the community. With most communities, it would be helping them negotiate with the local council about reburial or getting some funding to do that, but some communities very much do their own thing.

I: It seems that there needs to be additional archiving and provenancing conducted on unprovenanced remains.

DHN: It does, as until all the archival documentation is exhausted, unprovenanced remains will remains within museums. But I just don't think the government will ever provide the funding for this research and archiving.

I: That is a real shame as it seems like that is a way to move forward in the issue of unprovenanced remains, and specifically within international institutions, there is a real need for additional provenancing work and research to be conducted

DHN: Yes, I think that the main issue is that there just isn't the funding for such a project. I actually have this bad reputation for actually unprovenancing remains that were provenanced, which I though was a good thing because then they were definitely not going to the wrong communities. There definitely needs to be instigated but there is just no funding available and I just don't see it happening.

I: It seems like recently repatriation has come to a bit of a standstill, especially concerning unprovenanced remains, both internationally and within Australia.

DHN: Yes, it really has

I: Even with the establishment of the ACIR it doesn't seem like there has been much momentum following the national survey they distributed.

DHN: Yes, exactly, and everyone is say "well what came out of it?"

I: I do truly feel that education seems like a good way forward, especially internationally.

DHN: Absolutely. I mean some people are ignorant, and I don't mean that in a mean way but they are. So, it never ceases to amaze me how little people know, even if you do basic cultural awareness people are shocked and appalled.

I: Is the progressive 'whitening' of Indigenous Australians within today's society causing an issue in identity amongst younger community members?

DHN: Yes, it is. I do a lot of work with the students here, as we get a lot who feel almost ashamed to be called Aboriginal when they are so fair in complexion. So, I do a lot of stuff to help them work through those issues. So, the kids get teased from both the Aboriginal and non-Aboriginal community. But the connection of people to their family is not depended of what colour they are, you can have someone who has very dark skin but has no idea or connection to their family. But again, it does come back to that ignorance where people don't know, and in Australia particularly they don't know, and in most cases non-indigenous experiences and encounters with indigenous Australians is not always viewed positively, with stereotypes reinforcing perceptions. But education is really where I have seen changes in people's perception about Australian Indigenous people and their culture, and while you don't want people to feel guilty it is important that they are made aware of what happened and acknowledge the impact it has caused and move forward.

I: Absolutely I totally agree. Well thank you so much for talking with me I really appreciate it.

END TRANSCRIPT

Appendix 13:

Dr Tiffany Jenkins

Interview, Via Skype, 27 April 2016

BEGIN TRANSCRIPT

TJ: Tiffany Jenkins **I:** Interviewer

I: What do you feel with regards to unprovenanced remains and returning them or not

TJ: I tend to feel that they should stay in museums and the reasons for that are that in some circumstances they will prove valuable for all reasons, not all, but that is the nature of museums, you have all this stuff, and yes you have to make these decisions but on the whole, I would air towards retention rather than return.

I: So would these remains then, only have a function for science or would they be used for display?

TJ: It can be open to how they are used, allot of them aren't interesting to look at, not like bog bodies which have a display purpose, so I think many of these won't have a display purpose and they may not even be that interesting but you can air on the side that they might be

I: Okay.

TJ: I don't think there is much demand in the UK from the public for engagement in those uninteresting human remains. I did some stuff on the pagans honouring ancient dead, and that was I think a very combined time frame where human remains were in the news and they became a kind of really potent thing, but on the whole the observations I had were that from the Pagans were there were only a few individuals that were that concerned about them, on the whole they wanted really just to be recognized as Pagans. And it's just the remains are a way of doing that rather than the remains being the focal, the actual thing they were interested in.

I: Do you think because they have no significance to the public in this stage in their sort of "state" [of unprovenance] that maybe they should be sent back because they have no mutual importance and that maybe cultural importance outweighs the science?

TJ: I think it's rare for me. I think you tend towards science over cultural significant, because that's what I think is important but it's also because I'm not convinced that those cultural claims are solid.

I: Right okay.

TJ: If it's a named individual, and if you can track the lineage then absolutely, but I have questions about those claims. So, who's the authority to speak on behalf of the community? Are they really related to those remains? Does bringing them back achieve what we would like it to achieve? Probably not. So, I think it can be a huge detraction for communities.

I: So, do you think it's more of a political movement and agenda in accepting their claims for repatriation?

TJ: I think there's a number of different issues and it makes it really complicated. So, for a start I think human remains always have this strange category where they are both a research object and a person, and that just makes them have this kind of prism of potential where they can be used and they have been used by historic actors throughout history, and even if you look as recent named individuals like Gadhafi or Bin Laden, what is done with those bodies is important. They are used. I think a couple of things happens, I always think human remains have something kind of electric about them and new about them, and that they are associated with the sacred. But I think what you've got with Indigenous movements is a political shift from the 70's onwards away from equality movements, land rights, to a more cultural recognition. And I don't think that's a positive shift for anybody, I think it's quite divisive and backwards looking and it kind of 'Otherises' which makes it really concerning, and if you wonder who is being heard and why? So obviously there are lots of Native Americans, Aboriginal people, but who is heard by the museum community and what places. I find that very uncomfortable. A comparable example in Britain, when honouring the ancient dead, the Pagan movement wanted a kind of activism and respect around human remains. They were heard by the museum community, the Pagans for Archaeology. We were like, "we want to research the bodies, put them all out on display, we love them they are brilliant!" It was quite surreal. They were not recognized by the museum community because they were not really saying what they wanted, and that is the other dynamic in this. I think there are curators within this world who are proactive within this question who seek out communities, with good intentions, but there is a dynamic there.

I: Do you think the receptive nature of repatriation by museums may be due to underlying guilt perhaps?

TJ: I think that they are searching, yes. I think what has happened is that the foundational principles of the museums, the sort of Enlightenment principles are being subject to sever scrutiny, and it's not something you can "bandy" around as a good thing easily, you have to put a lot of caveats to prove the role museums had particularly in Britain in Colonisation in that uncomfortable past. So, I think you have two camps, you have those who are seeking to distant the museum from that purpose and want to find a new one, and culture is serving social purposes and enlighten communities and repairing the past is a really good thing for those people and so they are the ones who are actively going out. Then I think you have another camp, where I think you saw this in particularly the human remains issue where they think "science is great and the museum is cool, and give us some objects and don't give them to anyone else, they are ours", but they are not very articulate, a lot of them say they [human remains] are ours legally and you can't repatriate because the law says you can't do it, so they changed the law. They are not on string ground and they were not effective campaigners, so you have the situation where only a few individuals who are really pro repatriation, they can have a major impact on museum practice, as nobody else is quite able to articulate the purpose of the institution.

I: Within museums they do find it difficult to decide what to do, they are sort of stuck in the middle of doing the right thing and keeping remains later on for science to discover any information, which in a sense might help a community in the end, but it is quite difficult, and in Australia they find that they [museums] ultimately have to return them as some legislations tell them that they have to, where as those [museums] in the UK take it upon themselves to return remains, so it's their own decision to return them, which does allow them a level of flexibility, but you do find a lot of them are trying to do the right thing, in order to build some bridges. Do you think it is important for museums in the UK to have a relationship with indigenous communities or even Australian Museums, to work together and build an understanding of the culture?

TJ: In theory, if that was happening then absolutely. Because there are so many people who know things about collections that aren't in the museum, and possibly for museum professionals in Australian it might be some guy in the outback. My concern is that, although that is the discourse, I'm not convinced that that is the purpose, and then it becomes muddled and confused, and certainly in many cases we do find out things, but in other cases I'm not so sure as I think the narrative is all about repairing the past with communities today, rather than what do these things mean to these people. So, I don't know if you've been following the case of the Australian Bark which is in the British Museum. That is one example I can think of, that the way in which the contemporary narratives about Colonisation and Disposession have changed the meaning of those objects and probably what they meant to them. Nobody cares about that.

I: Well I think some of the Aboriginal people care.

TJ: Yes, but I think that's always the danger with the pursuit of knowledge. Obviously, the contemporary ideas, fashionable ones, influence your questions, but I think they are perhaps overshadowing the pursuit of understanding what those objects meant to the original people.

I: Do you think that museums in the UK do fully comprehend the cultural importance that the remains have for indigenous people and their connections to their ancestors, the Dreamtime, or is it something that they see as an issue and don't want to delve into it?

TJ: I think they don't comprehend it but they want to see it in the narrative or framework of today. So, I'm really struck by saying. You know the cremation bundles at the British Museum. So, these weren't buried originally, there would have been discarded after some time, after their purpose was no longer useful. But the museums professionals I spoke to wanted to return them and speak of them as though they had been excavated as though they were originally buried. So, the point being there, is that they wanted to see them as meaningful for the community, they wanted to repatriate them. So, they thought they were being respectful of the original circumstances of the way in which these things were possibly taken and what they meant. But because they are so keen to see them as objects that were excavated and shouldn't have been, they actually misunderstand the purpose of it.

I: No, it's true I do thing they misunderstand the purpose and unless you are Indigenous Australian you really don't comprehend the extreme, when it comes to understanding their culture and their connections with not only the land but also their ancestors etc., so I think it is really hard for museum staff to fully comprehend it and create a narrative, and to fully except certain thing, their demands and work with indigenous groups.

TJ: One of the problems with it is because they say "well they're different, have a different way of thinking about the world, they have their Dreamtime" that kind of means they will never understand it.

I: Absolutely, this becomes really difficult because you're [museums] are in this dilemma where our [western] cultural view is that human remains have a scientific significance, but then the moral obligation in the repatriation of human remains is that they [the remains] belong to a culture, and they are due the respect to have them returned back to their land. This issue of respect really comes into play, in terms of their culture, their people, so it is very difficult in terms of Western perspective to fully know what to respect. Is it respect to the human remains themselves? Is it respect for their culture, or of the people? This is very difficult from a Western perspective to know.

TJ: I think that they had changed meaning, and that you do now have communities in Australia that perhaps would treat those human remains very differently to their ancestors, and so it is complicated.

I: Yes, the whole issue of having to rebury remains and construct different ceremonies for reburial, is very difficult. They are having to re-write their culture.

TJ: Exactly, yes.

I: Do you think museums [in the UK] will find it quite difficult to repatriate remains which have very little provenance, due to the fact that they won't be going back to a community?

TJ: I think they would find that difficult, it would only be a case of some institutions wanting to do it. Someone like Tristram Besterman, he would likely do it, but the Director of the British Museum not so much.

I: This is an issue with the repatriation of unprovenanced remains as they are going back to the National Museum of Australia to go back into their storage, which in a sense is the same as staying in the UK.

TJ: Yeah, that might be easier for them, because they are not being buried as they would be in America.

I: So, this would allow the opportunity for scientific testing to be done. I know that Australia are wanting to create a National Resting Place.

TJ: Would they be accessible in the future in the resting place?

I: That is what it appears they are wanting to do, so they are hoping to create a place which allows Indigenous people to come and pay their respects, but also still maintain that access to the remains. So, I suppose in that sense it does still keep the possibility of the remains to have provenancing testing done on them. But they are still in a sense the imagery of them [the remains] is that they are entombed but also accessible.

TJ: Yeah, fascinating.

I: So that is a very sure way of finding a compromise where they will be buried in a sense but not quite.

TJ: Yeah.

I: One of my Chapters looks are the future prospects of unprovenanced remains and what could be done to not only give them [the unprovenanced remains] more purpose but also if they should go into a repository or not. Or if the UK should construct a national archive or database that incorporates information from all the Australian Indigenous human remains within museum collections within the UK, so that this database can be accessed within Australia, but also by Indigenous people to help with provenancing through looking at archival information, or presented terminology which may be indigenous or anything that might provide a location for them [the remains] to a specific region. Do you think this is something that might be beneficial?

TJ: I think more information about human remains is a good thing and it should be accessible to communities and people. So, I think that would be a good thing. But I don't think that it should just be for Aboriginal human remains. I think probably in the last decade, research on all human remains has become difficult and it may well be the case that there is quite a lot that we don't know that exists still, and anything that opens that up and is mentioned about it is a good thing.

I: That's great.

I: Do you think that museums should be more pro-active, in a sense, to the repatriation of unprovenanced remains?

TJ: So, if there are not provenanced there's not even a community to talk to, which is a very strange thing. But museums are for the pursuit of knowledge and the retention of objects. So, I don't think they should be going out of their way to get rid of them.

I: So essentially, communities don't have a right to claim these remains because they [the remains] don't have a provenance.

TJ: Well why couldn't I claim them? Who has the authority and on what basis to having a relationship to those human remains? You have to keep that as important.

I: Do you think the term 'Repatriation' is at all feared by museums, or that fear of the loss of remains?

TJ: I think that it is hard to tell, as I think things have changed considerably since early 2000 when that was very much the case, and there was real sense of loss. I don't think they would be so vocal about it now, I'm sure individuals are, but they would feel that

things have changed and they would know that perhaps that is not the acceptable thing to say. But people all think it's important, and it is important, so you do get very possessive I suppose.

I: Do you think that the possible construction of an exhibition focusing on repatriation, which looks at the ideas of repatriation, why it is, the pros and cons, the scientific benefit as well as cultural benefit is something that might be instructive and educational within a museum display? Having something were the public can go and make up their own mind surrounding if repatriation is a good thing or a bad thing, and looking at various cases. Is this something that might be good in the future?

TJ: Yeah, I do, because it's so important what's happening in museums, and yet beyond the Elgin marbles, which is an entirely different issue but were they are curated, the public aren't as familiar with this problem, and yet it's hugely important to the profession in Britain, America, Australia, New Zealand and to a lesser extent France. So, I've just written a book on Keeping their Marbles, one of the reasons I wanted to do it was because lots of my friends were asking me "what are you going on about? What are you talking about? Why do you like all this stuff? What does it matter? [recording interrupted] It would be highly controversial and any museum who did it would be terrified.

I: It is such a controversial topic and I think museums are still a bit fearful of displaying cases of repatriation, or especially if museums have objects that communities want repatriated.

TJ: They [museums] will think of. "what if they [community] come and ask for something else?"

I: Concerning the possible establishment of one policy which deals with human remains within all institutions within the UK might be beneficial for all museums when conducting repatriations, so that only one system is used?

TJ: I think that it would be hard because it is so much down to the circumstances of the acquisition, the claimant group, if there is one, but the policy which deals with that is quite hard. You just [recording interrupted] certain things like how you record human remains, how you treat them with respect, these things are not something which are simply agreed on and I don't think you would find a policy that would satisfy those questions.

I: It would be ideal that there was just one policy and everyone just deal with that, but obviously every institution has differing opinions, different perspectives, some of them don't like to repatriate so therefore the policy correlates with that, they don't always accept claims based on insufficient proof of affiliation. Kinship is obviously not viewed as proof of lineage. I know, especially in the US, and to some degree in

Australia and New Zealand, in the US they [communities] have to prove lineage and cultural affiliation, whereas in Australian and New Zealand, it is Kinship that acts as an important deciding factor in which they are relating to a specific region or group, so that is very much the basis of their claim and the fact that they [community] are from that one space which the remains derive from and are therefore family. However, when it comes to unprovenanced remains, they don't have a community, so therefore how can you repatriate them with no cultural affiliation, but knowing that they are of Australian Indigenous descent?

TJ: Yes, that is very hard.

I: This has been really helpful as it has provided a different perspective on the issue, especially with regards to unprovenanced remains as there is very little ability for these remains to be claimed. Therefore, if they are going from one institution to another and being placed within a National Keeping Place, perhaps focus should be on provenancing and not just placing the remains within a museum or repository. But then again perhaps the remains may have a future purpose in they were to stay within museums. But this is such a difficult and controversial issue, with lots of people with different opinions which makes it very difficult.

I: Do you think that the construction of a Safe Keeping Place/Safe Resting Place is a good thing within Australia?

TJ: My concern about it would be that it de-prioritises these remains as a scientific resource. I like the fact that they are there, but I think it's perhaps a concession I would find to great.

I: What function then would they [unprovenanced remains] have? Would they just remain within the museum until science can be conducted? Or would they be used for a display purpose?

TJ: I think probably that they would just sit in a box, let's be realistic about it, they wouldn't be very interesting and they might not be very useful in the short term but they may be in the future.

I: Even though they don't have any provenance, do you think they [the remains] would still have a scientific value?

TJ: It's possible not. I think you have to not over claim for the science as well, but I would air on the possibility, as something that would be useful one day.

I: This is a very difficult issue and there are various opinions in Australia wanting all remains to come 'home', they want them all back in Australia so them they are at least 'home', so it doesn't matter if they have a provenance, at least they are 'home' and them provenancing can be conducted later on to establish where exactly they may come from but at least they are within the 'motherland' in a sense.

TJ: Yeah.

I: But this ultimately does make it very difficult as many Indigenous communities don't want unprovenanced remains buried within their community boundaries.

TJ: Yeah because they are not provenanced, and they [museums] want to do the right thing but they don't know what it is.

I: At the moment when I spoke to people in Australian they said the focus is on remains which do have provenance and making sure they are returned, and then thinking about the issue of unprovenanced remains. Which makes sense.

TJ: But then you need to ask, what is the dynamic here? Why is there an idea of a Keeping Place? Who really wants it?

I: Perhaps focus should be on provenancing the remains so that the whole purpose of repatriation is actually fulfilled?

TJ: That is more logical.

I: However, then the issue of conducting invasive scientific testing on remains becomes a problem as you are not allowed to do any testing unless indigenous consent is provided, which cannot be gained from unprovenanced remains. Do you think greater provenancing could also be something conducted in the UK?

TJ: I think you always have to ask why? Why do thing? Is this the most important thing for a museum to be doing? Who's asking for it? Is there a real strong demand? I don't think there is, so maybe not do it.

I: So, the incentive would be to send them back to Australia for Australian Museum to do it.

TJ: But why send them back?

I: Some museums will do it because they want to because they are already repatriating a large number of remains so may send others that are unprovenanced as well.

TJ: Yes, then it no longer becomes their [the institutions] problem and they don't need to pose any questions.

I: I do feel that they want to build a bond with Indigenous groups but it [the relationship] doesn't always last.

TJ: I think museums do have good intentions but it's not always practical.

I: Do you think it helps when Indigenous Australian people come over to help construct a narrative for an exhibition?

TJ: It's possible, but often who has the right to speak? I just find the whole kind of racial discourse that makes me feel like, "this person because they are Indigenous they know about this object" where maybe they don't. Just because they are from "this place" it doesn't give them that authority necessarily. But on what basis do they know about it?

I: I think that is everything I needed to ask you. Thank you so much I really appreciate it.

TJ: It's a pleasure, I love talking about human remains.

I: Goodbye

TJ: Bye Bye

END TRANSCRIPT

Government Documents and Policies

Appendix 14:

Information for Communities: Scientific Testing on Indigenous Ancestral Remains

Australian Government,
Department of Communications and the Arts,
published 23 April 2015

Information for Communities
Scientific Testing on Indigenous Ancestral Remains

DISCLAIMER

Purpose

The purpose of this paper is to provide an overview on the issue of scientific testing on ancestral remains in relation to Indigenous repatriation. The paper aims to provide broad information that may assist individuals or communities in conducting further research on the issue.

Background and history

The historical context in which ancestral remains were acquired and the conditions under which past research was undertaken are important considerations. In the past the rights of Indigenous people over their genetic resources were not always recognised, protected or respected. A significant amount of scientific research was undertaken either without any consent or with only limited, and perhaps misunderstood, consultation. These background factors are not unique to Australia, and are a worldwide issue for Indigenous peoples.

Scientific testing of human remains (including bones, teeth, tissue and hair) may provide knowledge about the geographic origin of ancestral remains (birthplace) when all other archival research and non-invasive examination has been exhausted. It is also thought that such testing may provide insight into the genetic relationships of living peoples to the deceased and information about historical population movements, past diets, diseases and lifestyle.

Different definitions are used for human remains in legislation and regulations in Australia and overseas. Most refer to bones, teeth and skin (in the case of mummification), some exclude hair and many do not mention some types of materials such as blood samples. In addition, there are different legal treatments of remains depending on when the individuals died (e.g. if taken from graves, sacred sites) or when the samples were collected; usually remains more than 100 years old are treated differently from more recent remains. When human tissue is intrinsically part of an object (for example, as part of a secret sacred artefact), the issue should then be considered on a case by case basis.

Scientific testing involves complex ethical and cultural sensitivities, and in many cases raises more questions than answers. For example, some of the techniques and processes used in scientific testing are considered 'invasive', resulting in damage or destruction of the physical remains. The need to balance the risks of such harm or loss against the potential benefits of the knowledge gained is one of many difficult decisions Aboriginal and Torres Strait Islander peoples face when considering whether to allow scientific testing on ancestral remains.

Types of scientific testing

Ancestral remains that are part of collections in museums or other institutions may be subject to a range of scientific tests. These include DNA testing, carbon dating and fluoride testing. New techniques are continually being developed, such as sequencing collagen from bones.

For genetic relationships and geographical studies the two most important processes are DNA sequencing and *stable isotope analysis*. Both are considered destructive tests in that they destroy small amounts of the original material. Analysis of ancient DNA (aDNA) is used to genetically determine gender, genetic relatedness, understand marriage patterns, and investigate prehistoric population movements.

Scientific testing of human remains does not always produce conclusive results about origins and genetic relationships. As with any research, there is potential for error, misinterpretation or bias. The potential knowledge that can be gained depends on how the remains have been treated since death and the testing techniques used. DNA testing in particular can result in unreliable or inconclusive data, which is often referred to as 'ambiguous results'. Since DNA begins to deteriorate after death, aDNA is more challenging to work with than DNA samples taken from living people. The risk of contamination and mutation in aDNA is also a significant concern for researchers.

To determine the genetic relationships between living people and populations of the past, it may be necessary to obtain samples from present day Indigenous peoples for comparison and reference. The ethics of maintaining and protecting these modern samples is a further challenge that needs to be recognised by all stakeholders.

Stakeholders

The main stakeholders in scientific testing on ancestral remains are the Indigenous communities from which the remains originate. Community members may act as individuals or be part of an organisation accepted within that community, or both.

Other stakeholders include the researchers, the researcher's host institution, the collecting institutions holding the materials (in-trust or not), and the funders of research. All of these organisations are governed by codes or regulations concerning the ethical conduct in human research, and operate under guidelines for obtaining informed consent.

Consultation and informed consent

The Australian Government Policy on Indigenous Repatriation states that the study of ancestral remains should always be undertaken in consultation and with the informed consent of Aboriginal and Torres Strait Islander Traditional Owners or their identified representatives. Consent should be provided by

direct descendants, if they can be traced, or by appropriate community representatives. Occasionally, both relatives and community representatives give consent.

According to the Australian National Health and Medical Research Council: 'The guiding principle for researchers is that a person's decision to participate in research is to be voluntary, and based on sufficient information and adequate understanding of both the proposed research and the implications of participation in it.' [1]

Furthermore: 'The process of communicating information to participants and seeking their consent should not be merely a matter of satisfying a formal requirement. The aim is mutual understanding between researchers and participants. This aim requires an opportunity for participants to ask questions and to discuss the information and their decision with others if they wish.' [2]

During consultation Indigenous communities should ensure that:

- the aims of the proposal, the approach to be used and the implications of potential knowledge gained are in 'plain English', including an understanding of what the research will be used for
- they apply their own ethical standards but also require that the research proposal has passed a Human Research Ethical Committee. The latter is good practice if not a formal regulatory requirement for older remains but is important for DNA studies linking remains to the living
- they have fully explored the implications of the potential results with the researchers, including ambiguous results
- opportunities for the involvement of individuals from Indigenous communities in the research have been identified and significant involvement of Indigenous peoples are recognised in the authorship of the scientific paper where appropriate.

Collecting institutions and researchers need to ensure that:

- requests from community to release materials are from the appropriate individuals or representatives
- there is evidence that the consenting group does indeed understand what will be done in the research (e.g. destructive testing, exploring the 'genetic genealogy' of individuals) and its implications (e.g. the impact on a community of new knowledge or ambiguous results)
- given a presumption against destructive sampling, the potential knowledge gained outweighs the damage to the remains
- that the request is in line with institutional or national policies on use of results (e.g. protecting rights for commercial exploitation).

Ownership of scientific data

Collecting institutions have a responsibility for the long term care and responsible use of remains. Clear agreement is needed in advance on what happens to the:

- results of the research – the presumption should be publication in the peer-reviewed scientific literature. Communities should explore the use of anonymised data, as is the custom in the medical literature to keep patient details confidential, to recognise the cultural sensitivity to public exposure of images, names, etc. of the dead
- data – the ownership of the data and its use beyond the formal publication (e.g., will it be put up on publicly accessible databases?)

[1] National Health & Medical Research Council (Australia), *National statement on ethical conduct in human research*, Chapter 2.2: 'General Requirements for Consent', p.16, available at: http://www.nhmrc.gov.au/guidelines/publications/e72

[2] *ibid.*

- materials used in the research – some scientific procedures generate intermediate materials from the original, such as in DNA extraction and subsequent sequencing. The fate of these or unused materials needs to be tightly specified.

These and other details, such as restrictions on passing data and materials to third parties, should be covered by a 'materials transfer agreement'. Many collecting holding institutions use these, and for good practice, communities should too.

Costs

Scientific testing can be costly and is dependent upon many factors including the techniques used; the quantity and quality of samples to be tested; and access to resources and funding within institutions and their research partners.

The Indigenous Repatriation Program does not provide funding to undertake invasive research of ancestral remains unless specifically requested from the Traditional Owners and any living relatives from the Indigenous community from which the remains originate. Even then, extensive permission/consent would need to be sought before any testing could be considered.

Other sources of information

- Australian Government Policy on Indigenous Repatriation, available at: https://www.arts.gov.au/sites/g/files/net1761/f/australian-government-policy-on-indigenous-repatriation-august2011.pdf
- Aboriginal and Torres Strait Islander Heritage Protection Act 1984, available at: http://www.comlaw.gov.au/Search/aboriginal%20heritage%20protection%20act
- National Museum of Australia (Canberra), *Aboriginal and Torres Strait Islander human remains policy*, available at: http://www.nma.gov.au/__data/assets/pdf_file/0008/1412/POL-C-011_Aboriginal_and_Torres_Strait_Islander_human_remains-2.2_public.pdf
- Australian Museum (Sydney), *Repatriation of Indigenous Secret/Sacred and Ancestral Remains policy 2012*, available at: http://australianmuseum.net.au/document/Repatriation-policy/
- Museum Victoria (Melbourne) policy statement, *Repatriation Of Aboriginal And Torres Strait Islander Cultural Property*, available at: http://museumvictoria.com.au/pages/53296/mvpolicy_repatriation_of_aboriginal_and_torres_strait_islander_cultural_property.pdf
- National Health and Medical Research Council (Australia), *National statement on ethical conduct in human research* (specifically chapter 4.7 on research with Aboriginal and Torres Strait Islander groups, and section 2.2 on informed consent), available at: http://www.nhmrc.gov.au/guidelines/publications/e72
- Australian Institute of Aboriginal and Torres Strait Studies, *Guidelines for ethical research in Australian Indigenous Studies;* and *Guide to the informed consent form*, available at: http://www.aiatsis.gov.au/_files/research/GERAIS.pdf
- Nuffield Council on Bioethics [UK]: *The ethics of research related to healthcare in developing countries,* 2002, 2005 (specifically chapter 6 'Consent' and chapter 9 'What happens when the research is over', includes role of funding agencies and institutions as well as researchers. Included here because it address inequalities in power, etc), available at: http://nuffieldbioethics.org/project/research-developing-countries/

Definitions

ancient DNA (aDNA): the DNA present in remains of people, animals and plants. After death, DNA begins to deteriorate and therefore it is difficult to work with compared to DNA from living people. Often aDNA work fails to produce results.

DNA sequencing: DNA, the material in cells that store genetic information, is found in the nucleus of cells (in chromosomes) and in mitochondria, the energy producing parts of a cell. Nuclear DNA is inherited from both parents and mitochondrial DNA (mDNA) from the mother only. Because there are more copies of the mDNA it is often better preserved in human remains. After death, DNA breaks down into fragments and these small amounts need to be increased or 'amplified' so they can be studied. The usual method of 'amplification' is the Polymerase Chain Reaction (PCR). The sequence of the four building blocks of DNA varies between individuals and groups of people and can therefore be used to study the genetic relationships between people or populations.

Human Research Ethics Committee (HREC): most research organisations (universities, institutions, some museums) will have an HREC. It evaluates the ethical basis of the research, especially the nature of informed consent. Usually HREC's consider research on the living or the recently dead (eg retention of materials from post mortem's) but in the special case of Indigenous or developing country communities they take a wider remit. Institutions that don't have HREC's usually arrange to use a partner institution's committee. It's not an obstacle to research but to help improve its appropriateness in a wider context.

Material Transfer Agreement (MTAs): terms under which material (remains) are being released. An MTA describes what is to be done with the material (methods); whether unused material and, in the case of DNA studies DNA amplification products (from PCR), are returned or destroyed; where copies of results are lodged; terms for commercial exploitation; etc.

Stable isotope analysis: most chemical elements occur in different forms called isotopes. Isotopes in rocks, water, plants and animals are incorporated into the tissues of people from the food they eat and the water they drink. Measuring the ratio of different isotopes potentially allows us to identify where a person came from (Strontium, Oxygen) or what they ate (Carbon and Nitrogen). Minute samples from bones, collagen or teeth are vaporised in a machine called a mass spectrometer to determine their composition.

Appendix 15:

Discussion Paper & Survey:
A National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with no known community of origin.

Australian Government,
Department of Regional Australia,
Local Government, Arts and Sport, Office for the Arts,
2013

Australian Government
Department of Regional Australia, Local Government, Arts and Sport

OFFICE FOR THE Arts

DISCUSSION PAPER & SURVEY

A National Keeping Place for Aboriginal and Torres Strait Islander Ancestral Remains with no known community of origin

The Advisory Committee for Indigenous Repatriation seeks your views on establishing a National Keeping Place for ancestral remains that cannot be returned home because there is not enough information about where they come from.

INTRODUCTION

With European settlement in Australia came the practice of removing the remains of Aboriginal and Torres Strait Islander family members. For more than 150 years, Aboriginal and Torres Strait Islander ancestral remains were transported to museums, universities and private collections in Australia and overseas.

Since the 1990s, all Australian governments have been working with Aboriginal and Torres Strait Islander peoples to identify and return ancestral remains to their traditional lands.

The return of ancestral remains to their traditional lands is extremely important to Aboriginal and Torres Strait Islander peoples and all Australians. It is a matter of justice and healing, and an opportunity to right the wrongs of the past. It is the first step towards honouring the ancestors' dignity. It allows them to finally rest in peace in their homelands.

In some cases, there is not enough information to identify where ancestral remains come from.

What is 'Repatriation'?

Returning ancestors home.

What is 'Provenance'?

The place where the ancestors are from.

What is 'unprovenanced' or 'no known community of origin'?

There is information to say the ancestors are Aboriginal or Torres Strait Islander, but no information about where they come from.

ADVISORY COMMITTEE FOR INDIGENOUS REPATRIATION (ACIR)

The Australian Government has established an all-Indigenous Advisory Committee as a way for Indigenous peoples to provide advice to Government on cultural and management issues relating to returning ancestors home. Members are Mr Ned David (Co-Chair), Ms Lynette Shipway (Co-Chair), Prof. Henry Atkinson, Mr Phil Gordon, Mr Neil Carter and Ms Zoe Rimmer.

Closing the Gap.

AUSTRALIAN GOVERNMENT'S INDIGENOUS REPATRIATION POLICY

The Australian Government's Policy on Indigenous Repatriation outlines a commitment to facilitating the return of Aboriginal and Torres Strait Islander ancestral remains.

The Government acknowledges that Aboriginal and Torres Strait Islander peoples are the rightful custodians of their ancestors and believes that Indigenous peoples should determine if, when and how they are returned home.

Through the Indigenous Repatriation Program, the Australian Government supports the repatriation of Aboriginal and Torres Strait Islander ancestral remains held in overseas institutions, and the repatriation of ancestral remains and secret sacred objects held in major Australian museums.

Domestically, the program provides funding to eight major Australian museums to undertake the repatriation of Indigenous ancestral remains and secret sacred objects held in their collections.

Internationally, through the Office for the Arts the Government works together with Indigenous communities, overseas governments and collecting institutions, Australian Embassies and High Commissions, other Australian Government agencies, Australian museums, and state, territory and local governments to facilitate the return of ancestral remains from overseas.

Aboriginal and Torres Strait Islander peoples are closely involved at all stages of the repatriation process. The major Australian museums and the Office for the Arts consult directly with the Traditional Owners or their representatives.

Where Traditional Owners are unknown consultations take place with the Advisory Committee for Indigenous Repatriation or other Indigenous advisory groups to provide advice and guidance.

CURRENT SITUATION

Where possible, Aboriginal and Torres Strait Islander ancestral remains are returned to their community of origin. Often documentation such as historical records, letters, diaries and reports give some indication about the exact location that the ancestors were taken from. Sometimes there are only vague historical records which identify ancestral remains as Australian or from a state/territory or a region. Some ancestral remains can be traced to communities, however, a significant number are from unidentified Country, that is, no information is available to help determine the exact place where they were taken from.

Under the Indigenous Repatriation Program, where there is limited historical documentation and the community of origin is not known, the Office for the Arts facilitates the return of the ancestral remains to the care of Australia's major museums in hope that further work can be done in the future to identify the rightful custodians.

Where information is available to trace the ancestral remains to a state, territory or region (meaning their community or place of origin is not clear), they are cared for 'in trust' by the relevant state or territory museum. These museums are funded under the Indigenous Repatriation Program to have an active repatriation program which enables them to undertake consultations with the broader community, to advise them on longer-term care.

Where ancestral remains are traced to 'Australia' only and their community of origin is not clear, they are returned to the care of the National Museum of Australia in Canberra. The National Museum of Australia is funded through the Indigenous Repatriation Program to receive and care for these remains. Currently the National Museum of Australia has more than one hundred ancestors in its care that have no information to identify where they come from.

Why is the Government asking Aboriginal and Torres Strait Islander peoples about the longer-term care and management of ancestral remains?

The most culturally appropriate place to keep ancestral remains with no known community of origin is a difficult issue. There is currently no Indigenous specific facility to care for such remains. The National Museum of Australia has taken on this role over the last ten years. The Advisory Committee for Indigenous Repatriation have decided further consideration needs to be given to the longer-term care and management of ancestral remains that may never be returned to a community of origin.

The Advisory Committee believe that Indigenous communities are to have control and ownership of the repatriation process, especially in the care and management of ancestral remains that are unable to be returned to Traditional Owners. So they have decided to undertake a consultation process to ask the views of Aboriginal and Torres Strait Islander peoples, organisations and other interested stakeholders.

The Advisory Committee recognises the issue is complex and sensitive, however, consultations are critical to determine a way forward that is culturally sensitive, encompasses the range of diverse Indigenous cultures and beliefs and most importantly, is inclusive of Aboriginal and Torres Strait Islander aspirations.

What am I being asked?

Supported by the Australian Government, the Advisory Committee is seeking the views on the longer-term care and management of Aboriginal and Torres Strait Islander ancestral remains that have no known community of origin. Previous consultations dating back 20 years, have determined that a national site is required to inter/bury Aboriginal and Torres Strait Islander ancestral remains that are unable to be returned home because there is not enough information about where they come from. The consultations this time includes, seeking feedback about the form, location and function of a National Keeping Place.

PAST CONSULTATIONS:

The question has been asked before.

1993: Ministers for Indigenous Affairs adopted national principles for the return of Indigenous cultural property, which included access to reasonable facilities and places for safekeeping of repatriated significant cultural material.

1994: The Foundation for Aboriginal and Islander Research Action undertook consultations that identified the need for a safekeeping place for poorly provenanced and other ancestral remains.

1997-1998: The Aboriginal and Torres Strait Islander Commission held consultations regarding its policy on the return of human remains. The proposal for a national keeping place was supported by Indigenous organisations.

2004: On behalf of the Australian Government the National Museum of Australia surveyed Indigenous peoples on the future care and management of poorly provenanced ancestral remains. Results showed most communities would prefer another option other than the continued holding of ancestral remains within museums and that Indigenous people want to have control and ownership of the repatriation process, especially concerning remains that cannot go home.

What is the Advisory Committee's view?

The Advisory Committee's view is:

> *"Aboriginal and Torres Strait Islander ancestral remains with no known community of origin should be interred in a National Keeping Place that is located in the nation's capital, Canberra"*

The Advisory Committee are of this view because:

- First and foremost, a National Keeping Place should be sacred, symbolic and bring closure for ancestors so that their dignity is recognised and they can be laid to rest in peace in their broader homeland as one family, one community and not forgotten. It should serve as a memorial dedicated to the memory of all ancestors who were removed from their traditional homelands, including those that may never be repatriated from collections.

- It should be in the form of a central repository that is managed by an Indigenous body under a custodianship arrangement that ensures that the remains are restricted and secure for safe keeping and future access. If, in time, Indigenous peoples views change towards scientific research techniques that assist with determining a community of origin, the ancestral remains could still be accessible into the future.

- The location should be in the nation's capital, which is the home of many nationally significant cultural institutions, for example the Australian War Memorial and the Australian Institute of Aboriginal and Torres Strait Islander Studies. A National Keeping Place in Canberra will bring a national focus to the injustices of our shared past and a vehicle for national reconciliation.

- It raises public awareness and understanding that ancestral remains are first and foremost real people, they are family, and deserve respect and dignity, the same as we give our deceased of today. It could support a national grieving process or commemorative ceremonies that are an expression of compassion and broader respect to honouring the dignity of ancestors.

What are some keeping place options?

Some examples of current keeping places include:

CEMETERIES and MEMORIAL PARKS are permanent sanctuaries that reflect individual, religious or cultural identity. They are generally for burials, but can be for interments in crypts and vaults, or have a cremation memorial/garden. Cemeteries and memorial parks provide a physical place for people to commemorate life, celebrate the past and mourn loss.

Museum Victoria worked with the Aboriginal Community of Victoria to rebury unprovenanced ancestral remains at the Weeroona Aboriginal Cemetery in Greenvale, Melbourne. Extensive consultation was undertaken with a number of state-wide Aboriginal cultural heritage bodies and professionals and the opinion was sought from Traditional Owners to establish that the Weeroona Cemetery was an appropriate location for the reburial. The Weeroona Cemetery was selected on the basis that it is identified by many people as Aboriginal land; is a single, central location accessible to all Victorian Aboriginal people; is a designated cemetery; has an active management structure and support network; and has the capacity to continue to receive ancestral remains. A culturally appropriate reburial ceremony was held and a large boulder was positioned to mark the area. Aboriginal Affairs Victoria mapped the site and registered the location as an Aboriginal site (under Aboriginal Heritage Act 2006).

MAUSOLEUMS are buildings constructed as a monument enclosing the interment space or burial chamber of a deceased person or people. A mausoleum may be considered a type of tomb or the tomb may be within the mausoleum.

The Tomb of the Unknown Soldier at the Australian War Memorial is an example of this. The remains of the Unknown Australian Soldier have been interred in the Hall of Memory at the Australian War Memorial to represent all Australians who have given their lives during wartime.

CULTURAL INSTITUTIONS have purpose built storage facilities to care for and protect artefacts and other objects of importance.

Under the Australian Government's Indigenous Repatriation Program, the National Museum of Australia is the national institution which receives and cares for unprovenanced ancestral remains repatriated from overseas.

The New Zealand Government's repatriation program located at Te Papa (New Zealand's National Museum) has hosted seven regional meetings around the country with tribe representatives to canvas people's perspectives as to an appropriate final resting place for unprovenanced Māori ancestral remains. During the consultation process the tribes considered burial options at Te Rerenga Wairua (represents the top of the North Island, a highly significant area to Māori, it marks the point from which Māori descendants travel in spirit form back to their traditional homeland) and an interment arrangement at a mausoleum in Wellington.

What is the role of science?

Aboriginal and Torres Strait Islander peoples face difficult decisions when considering allowing access to ancestral remains for scientific research that may assist with determining where their ancestors come from. They have to balance cultural considerations with the potential benefit of gaining knowledge.

For genetic relationships and geographical research the two most important tests are 'DNA sequencing' and 'stable isotope analysis'. Both are destructive tests that destroy small amounts of the original human material.

Analysis of human remains can tell us about past diets, diseases and lifestyles as well as genetic relationships of the deceased to the living, historical population movements and the geographical origin of ancestral remains.

New methods are continually being developed and research on ancestral remains leading to new knowledge will have an impact on Indigenous culture and wellbeing. It is also likely to have implications for the relationship between Indigenous communities and wider society in Australia and beyond.

Consent by Traditional Owners to undertake scientific research is paramount. Understanding both the proposed research and the implications of participating in the research from an ethical and scientific view are issues that Aboriginal and Torres Strait Islander peoples face when considering the use of scientific research methods.

How can I participate in the consultations?

There are several ways to participate in the consultation process:

Written Survey	▪ Respond to the questions in the attached Survey. ▪ Send your responses to: Office for the Arts - Indigenous Repatriation Program GPO Box 803, Canberra ACT 2601 ▪ Or email your responses to Repatriation@pmc.gov.au
Online Survey	▪ Go to www.arts.gov.au/indigenous/repatriation/consultation and fill in your answers to the questions in the online Survey
Community Consultation Forum	▪ Attend a community consultation forum to talk about your ideas. Go to www.arts.gov.au/indigenous/repatriation/consultation to find a location for a community consultation forum and register to attend. ▪ If you prefer, fill in your answers to the questions in the Survey and submit it at the community consultation forum.
Group Teleconference/ Meeting	▪ Contact the Office for the Arts on 1800 006 992 to arrange a meeting to discuss your feedback to the questions in the Survey and provide further ideas. ▪ Or email the Office for the Arts at Repatriation@pmc.gov.au to request a meeting.

How long is the consultation process open for?

The consultation process will be open from June 2013 and close in August 2013.

What will the Advisory Committee do with this information?

The feedback will be compiled in a report for the Advisory Committee to consider. The Advisory Committee will then develop their advice to the Australian Government on recommending a way forward.

All responses will remain confidential and will only be used by the Advisory Committee for the purposes of preparing advice to the Australian Government.

Where can I get more information?

More information can be found on the Office for the Arts website at www.arts.gov.au/indigenous/repatriation/consultation.

SURVEY

Aboriginal and Torres Strait Islander ancestral remains that cannot be returned home because there is no information about where they come from, need longer-term care and management.

1. Do you support a National Keeping Place for this purpose (please circle)?

   YES / NO

   (If NO, please go to Question 9)

2. Why do you support a National Keeping Place?

   _____

   _____

   _____

3. What form do you think a National Keeping Place should take?

   _____

   _____

   _____

4. Why do you support this form?

   _____

   _____

   _____

5. What do you think the function of a National Keeping Place should be?

   _____

   _____

   _____

6. Why do you support this function?

_____

_____

_____

7. Where do you think a National Keeping Place should be located?

City/Town/Land (please specify) _____

_____

8. Why do you support this location?

_____

_____

_____

(Please go to Question 13)

9. If you do not support a National Keeping Place, what other option do you support?

_____

_____

_____

10. Why do you support this option?

_____

_____

_____

11. Where do you think it should be located?

City/Town/Land (please specify) _____

_____